

CHAPTER 3.0

RESPONSE TO COMMENTS

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This section contains responses to comments that were received during the public comment period on the Draft Environmental Impact Statement / Tribal Environmental Impact Report (Draft EIS/TEIR). All of the comments, which have been bracketed and numbered for ease of reference, are provided in **Section 2.0** of this document. Written comments received from public agencies and other governmental entities are given the prefix “A” followed by a sequential number, distinguishing each comment. Written comments received from Native American Tribal Governments are given the prefix “T”. Written comments received by citizens, private organizations, businesses, unions, etc., are given the prefix “I.” Finally, verbal comments provided during the public hearing are given the prefix “PH.” Refer to **Table 2-1** which provides an index of all of the comments received on the Draft EIS/TEIR.

Once an issue is addressed, either in the General Responses (**Section 3.1**) or in an individual response to a comment, subsequent responses to similar comments reference the initial response. This format eliminates redundancy where multiple comments have been submitted on the same issue.

3.1 GENERAL RESPONSE TO COMMENTS

GENERAL RESPONSE 1 – NON-NEPA ISSUES

Summary of Comments: Some of the comments received were expressions of opinion either for or against the Proposed Project. Other comments do not raise a substantive environmental issue.

Response: Federal agencies must follow the requirements in the President’s Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) Regulations, 40 CFR Part 1500, when responding to comments. The CEQ Regulations generally recommend that comments be addressed if they are: “1) Substantive and relate to inadequacies or inaccuracies in the analysis or methodologies used; 2) Identify new impacts or recommend reasonable new alternatives or mitigation measures; 3) Involve substantive disagreements on interpretations of significance and scientific or technical conclusions.” According to 40 CFR 1500.1 and 1500.4, the goal of NEPA is to improve decision-making by providing decision makers and the public with pertinent and accessible information on potential project impacts on the environment. Comments received that further NEPA’s purposes are included in the Final EIS/TEIR. Responses are not required for comments that do not raise a substantive environmental issue, such as comments merely expressing an opinion. However, such comments have been included within the administrative record and thus will be considered by the BIA in its decision on the project.

GENERAL RESPONSE 2 – PURPOSE AND NEED

Summary of Comments: A number of commenters suggested that the Purpose and Need for the Proposed Project was not accurately stated as the Los Coyotes Band of Cahuilla and Cupeño Indians (Tribe) currently has alternative sources of revenue, including revenue from a lease agreement with the

Eagle Rock Training Center (ERTC), revenues paid to the Tribe through the Revenue Sharing Trust Fund, and revenue from an existing campground on the Reservation.

Response: The purpose and need for the Proposed Action is clearly stated within Section 1.2 of the EIS/TEIR. The Tribe is in need of a *reliable, significant* revenue source that would be used to strengthen the tribal government; fund a variety of social, housing, governmental, administrative, educational, health and welfare services to improve the quality of life of tribal members; and provide capital for other economic development and investment opportunities.

The purpose and need for the Proposed Project has been revised to clarify that while the Tribe does have other very limited sources of revenue, these sources are unreliable and are insufficient to fund the infrastructure and services needed by the Tribe. Furthermore, these sources are inadequate to allow the tribe to become self-sufficient or to achieve tribal self-determination. In February 2012, the Tribe obtained a judgment for eviction which requires ERTC to vacate the reservation; a federal lawsuit on the same issue is still pending. Because the lease with the ERTC is currently the subject of litigation, the likelihood of future revenue generation is uncertain. Even in the unlikely event that the judgment is reversed and the lease is ultimately determined to be valid, the ERTC operations have not generated employment opportunities or significant revenues for the Tribe, and are not expected to do so in the future. Regarding the existing campground on the Reservation, there are not enough patrons to support year-round operation, and this endeavor has failed to generate significant revenues for the Tribe. Alternative D addresses the effects of a larger more substantial campground as a means of generating a more substantial revenue source, but as noted in Section 2.5 of the Final EIS/TEIR, Alternative D fails to generate sufficient revenue to meet the needs of the Tribe.

GENERAL RESPONSE 3 – COMPLIANCE WITH GAMING REGULATIONS AND LEGISLATION

Summary of Comments: A number of comments raised concerns regarding the legality of gaming on the project site, and whether or not Alternatives A and B are consistent with requirements of federal Indian law including the Indian Gaming Regulatory Act (IGRA). Commenters stated that the Los Coyotes Tribe should have an ancestral, historic and modern day connection to the project site in order to be able to game on the property. Additionally, commenters asserted that Alternatives A and B are inconsistent with the legislative intent of Proposition 1A and Proposition 5.

Response: As discussed in Section 1.1 of the EIS/TEIR, the Tribe is seeking to acquire off-reservation land in trust for gaming purposes, therefore compliance with Section 20 of IGRA is being considered along with the Bureau of Indian Affairs (BIA) Part 151 fee-to trust application. **General Response 1** above explains that responses are not required for comments that do not raise a substantive environmental issue. Accordingly, no responses are required for comments related to the ability of the Department of the Interior to take land into trust or compliance with the provisions of the IGRA. For the purposes of this EIS/TEIR, it is assumed that the Barstow site can be taken into trust and utilized for gaming. Although these comments do not raise substantive environmental issues, the following background information may be helpful:

The Secretary of the Interior (Secretary) has broad discretion to acquire lands in trust for the benefit of Indian tribes pursuant to the Indian Reorganization Act (IRA). To assist in restoring tribal land bases, the IRA, among other powers, gives the Secretary the authority to acquire, at the Secretary's discretion, interests in lands "within or without existing reservations." 25 U.S.C. § 463(a), 463e, and 465. The policy of the IRA is to provide a tribal land base on which tribal communities, governed by tribal governments, can exist and flourish by rebuilding a land base and promoting tribal economic and governmental self-sufficiency.

The IRA itself does not directly pertain to Indian gaming. Instead, IGRA sets the criteria under which gaming activities can occur on Indian lands. Under Section 20 of IGRA, 25 U.S.C. § 2719(b)(1)(A), off-reservation gaming must be expressly authorized by the Secretary. Section 20 states that gaming shall not be conducted "on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988," unless certain limited conditions are met. 25 U.S.C.A. § 2719(a). Under the exceptions to § 2719(a), gaming on newly acquired trust lands may be conducted, pursuant to a "two-part determination" when:

"[t]he Secretary, after consultation with the Indian tribe and appropriate State, and local officials ... determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian Tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination."

The Tribe has requested that the Secretary take the Barstow Site into trust pursuant to the IRA and its implementing regulations, 25 C.F.R. Part 151, and determine the site eligible for gaming pursuant to the two-part determination process under Section 20 of IGRA and its new implementing regulations, 25 C.F.R. Part 292. The distance of the proposed site from where the location where the tribe maintains core governmental functions and evidence of a tribe's significant historical connections, if any, to the land are just two of a number of issues identified in 25 CFR 292.17 that the Secretary will consider in determining the first prong--whether a gaming establishment on the proposed site would be in the best interest of the tribe and its members--of his two-part analysis. The distance of the proposed site to a tribe's reservation is also a factor considered by the Secretary in taking lands outside a tribe's reservation into trust under 25 CFR 151.11. Specifically, the further from the reservation, the greater scrutiny the Secretary gives to the tribe's justification of anticipated benefits and the more weight given to the concerns of state and local governments.

Although comments concerning Proposition 1A and Proposition 5 also do not raise substantive NEPA issues, the following background information may be helpful:

Proposition 5 proposed to add provisions to California law requiring the State to offer a tribal-state gaming compact to "any federally recognized Indian tribe that is recognized by the Secretary of the Interior as having jurisdiction over Indian lands in California" (Sec. 98004). The terms of the offered tribal-state gaming compact provided that "[t]he tribe may establish and operate gaming facilities in which the gaming activities authorized under this Gaming Compact may be conducted, provided that the facilities are located on Indian lands within California over which the Tribe has jurisdiction, and

qualify under federal law as lands upon which gaming can lawfully be conducted.” (Section 4.2) The Summary of Proposition 5 prepared by the State Attorney General stated that:

“A YES vote of this measure means: The State must enter into a specific agreement with Indian tribes who wish to conduct certain gambling activities on Indian lands in California. A NO vote of this measure means: The state would not be required to enter into the agreement specified in this measure. The state could still negotiate with individual Indian tribes on the extent of gambling allowed on Indian lands in California.”

Proposition 1A proposed to amend the California Constitution by authorizing the Governor

“to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery gaming and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.” (California Constitution, Article IV, Section 19, (f))

Both Proposition 5 and Proposition 1A were approved by the voters of the State of California. Both Propositions contemplated that tribes would be able to conduct gaming on Indian lands within California over which the Tribe has jurisdiction, and which qualify under federal law as lands upon which gaming can lawfully be conducted. IGRA defines the term “Indian lands” and establishes the additional requirements which Indian lands acquired after October 17, 1988 must satisfy in order for such Indian lands to qualify as eligible for gaming. Propositions 5 and 1A permitted Indian gaming on all Indian lands in California which are eligible for gaming, including lands which become Indian lands after the dates the Propositions were approved.

3.2 RESPONSES TO WRITTEN AGENCY COMMENTS

COMMENT LETTER A1: NATIVE AMERICAN HERITAGE COMMISSION

Response to Comment A1-1

Comment noted. Section 3.5.3 of the EIS/TEIR provides a description of consultation with the Native American Heritage Commission (NAHC), Native American Tribes, and the results of the record search conducted at the San Bernardino Archaeological Information Center (SBIC) of the California Historical Resources Information System. Contact information for all but one of the tribes and individuals listed in the attachment to the comment letter was previously provided to the BIA in response to an earlier request for information. Correspondence with these tribes was included in Appendix G of the Draft EIS/TEIR. A consultation letter, included within **Appendix R** of this Final EIS/TEIR, was sent to the additional tribe identified in the NAHC’s comment letter on February 1, 2012. A follow-up call was conducted on February 10, 2012. To date, no response has been received from any of the individuals or groups contacted.

Response to Comment A1-2

Section 5.5 of the EIS/TEIR includes mitigation measures to minimize the potential for adverse effects in the event that human remains are inadvertently discovered in accordance with Section 106 of the National Historic Preservation Act as amended (36 CFR 800) and the Native American Graves Protection and Repatriation Act (NAGPRA)(25 USC 3001 *et seq*).

COMMENT LETTER A2: NATIONAL PARK SERVICE, PARTNERSHIP PROGRAMS, PWR Response to Comment A2-1

The commenter's review of the EIS/TEIR is noted.

COMMENT LETTER A3: U.S. GEOLOGICAL SURVEY, ENVIRONMENTAL MANAGEMENT BRANCH

Response to Comment A3-1

The commenter's review of the EIS/TEIR is noted.

COMMENT LETTER A4: DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Response to Comment A4-1

The commenter's summary of the Proposed Project (Alternative B) is accurate and is reflected in Section 2.2.2 of the Draft EIS/TEIR.

Response to Comment A4-2

As described in Section 3.11.1 of the Draft EIS/TEIR, the environmental database review for the project alternatives was accomplished using the services of a computerized search firm, Environmental Data Resources, Inc. (EDR). EDR reports for the Barstow and Los Coyotes sites are included as Appendix K of the Draft EIS/TEIR. The scope of the regulatory information search conducted for the sites included, but was not limited to, the databases listed by the commenter. As described in Section 3.11.2, no outstanding open environmental cases with local, state, or federal regulatory agencies for the Barstow and Los Coyotes sites were identified within these databases. Mitigation measures were included in Section 5.11 of the Draft EIS/TEIR to minimize or eliminate potential contamination to environmental resources from the use and storage of hazardous materials during construction activities and to reduce potential adverse effects from hazardous waste management activities; therefore, the project alternatives would not pose a threat to human health or the environment.

Response to Comment A4-3

As discussed in Section 2.0 of the Draft EIS/TEIR, the Proposed Project would be located on land that would be taken into trust by the BIA. Accordingly, the Tribe and the United States Environmental Protection Agency (USEPA) would have jurisdiction over development of the Proposed Project in relation to potential impacts associated with hazardous materials. The USEPA would be responsible for

ensuring the Tribe complies with regulations regarding hazardous materials as the State, and accordingly the Department of Toxic Substances Control, does not have authority over tribal trust lands..

Refer to **Response to Comment A4-2**. No outstanding open environmental cases with local, state, or federal regulatory agencies for the site were identified, and no reported sites in the vicinity of the Barstow and Los Coyotes Site site were found to be currently under remediation.

A Phase I Environmental Site Assessment (ESA) conducted in accordance with the *ASTM Standard E 1527, Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process* was prepared for the Barstow site and was included as Appendix J to the Draft EIS/TEIR. The Phase I ESA concluded that no Recognized Environmental Conditions exist on the Barstow site and no further studies were warranted. The Phase I ESA will be updated prior to the land being taken into trust in accordance with Department of the Interior Policy 602 DM2.

Mitigation measures were included in Section 5.11 of the Draft EIS/TEIR to minimize or eliminate potential contamination to environmental resources from the use and storage of hazardous materials during construction activities and to reduce potential adverse effects from hazardous waste management activities. The commenter's additional information on appropriate protocols is noted.

Response to Comment A4-4

As described in Section 4.11 of the Draft EIS/TEIR, during operation of the proposed facilities, the majority of waste produced would be non-hazardous. The small quantities of hazardous materials that would be utilized would include motor oil, hydraulic fluid, solvents, cleaners, lubricants, paint, and paint thinner. The amount and type of hazardous materials that would be generated are common to commercial sites and do not pose unusual storage, handling, or disposal issues. Materials would be stored, handled, and disposed of according to state, federal, and manufacturer's guidelines. The commenter's additional information on appropriate protocols is noted.

Response to Comment A4-5

The commenter's request is noted.

COMMENT LETTER A5: CALIFORNIA DEPARTMENT OF TRANSPORTATION

Response to Comment A5-1

In response to this request, a ramp diverge analysis has been completed for the I-15 southbound (SB) off-ramp/Lenwood Road and at I-15 northbound (NB) off-ramp/Lenwood Road, for Opening Year 2013 and Horizon Year 2035 under weekday, Saturday mid-day and PM, and Sunday peak hour conditions. The results of the analysis are summarized within Section 4.7, Section 4.13 and Appendix Q of the Final EIS/TEIR.

Response to Comment A5-2

In response to this request, a queuing analysis was conducted for the I-15 NB/SB Off-Ramps/Lenwood Road and at I-15 NB/SB Off-Ramps/Outlet Center Drive interchanges for Opening Year 2013 and Horizon Year 2035 under weekday, Saturday mid-day and PM, and Sunday peak hour conditions. The results of the analysis are summarized within Section 4.7, Section 4.13 and Appendix Q of the Final EIS/TEIR. Additional mitigation measures have been identified and are included in Section 5.7 of the Final EIS/TEIR.

Response to Comment A5-3

Table 4.7-2 in the Final EIS/TEIR has been revised to be consistent with Table 9-1 in the Los Coyotes Casino Barstow Site Traffic Impact Analysis (TIA) included as Appendix H of the Draft EIS/TEIR.

Response to Comment A5-4

The commenter states that both Tables 4.7-10 and 4.7-11 are titled Background plus Alternative B Roadway Analysis. The commenter is incorrect. Table 4.7-10 is titled Background plus Alternative B Roadway Segment Conditions – Opening Year 2013 and Table 4.7-11 is titled Background plus Alternative B Freeway Segment Conditions – Opening Year 2013. These titles appropriately describe the contents of the tables.

Response to Comment A5-5

A complete analysis of the horizon year 2035 traffic condition is provided in Section 4.13 of the EIS/TEIR and Appendix H of the Draft EIS/TEIR.

Response to Comment A5-6

Comment noted. All comments submitted within the public comment period have been addressed in the Final EIS/TEIR. Necessary revisions to the TIA will be completed and a revised TIA will be resubmitted to the Department of Transportation as part of the encroachment permit process.

Response to Comment A5-7

Due to the voluminous nature of the TIA appendices, they were not included in the Draft EIS/TEIR but were made available upon request. The TIA appendices were posted on the project website on August 25, 2011 and can be viewed at: http://www.loscoyoteseis.com/documents/draft_eis-teir/report.htm. The Final EIS/TEIR will indicate the location of the TIA appendices.

Response to Comment A5-8

The commenter states that the traffic analysis should include the Sunday PM peak-hour, because traffic traveling to and from Las Vegas impacts local intersections and roadways. In response to this comment, a Sunday PM peak-hour traffic analysis was conducted, the results of which are summarized in Section 3.7, Section 4.7, Section 4.13 and Appendix Q of the Final EIS/TEIR. In general the modeled Sunday level of

service (LOS) and delays at study intersections were found to be less than the modeled weekday and Saturday LOS and delays; therefore, the Draft EIS/TEIR provides a worst-case analysis of intersection operation with project traffic. The Sunday ramp diverge operations was found to be the worst-case and the Saturday queuing was found to be the worst-case.

Response to Comment A5-9

The commenter requests that the year be added to Figures 5.2, 5.3a, and 5.3b of the TIA, and traffic volumes for the I-15 on-ramps be added to Figures 5.3a and 5.3b of the TIA. The existing year for the existing traffic condition and volumes in Figures 5.2, 5.3a, 5.3b is provided in Section 5.2.3 of the TIA. As stated in Section 5.2.3 of the TIA, little or no growth occurred between 2007 and 2009; therefore, the counts shown in these figures are assumed to accurately represent 2009 counts. The I-15 NB and SB on-ramp traffic volumes were not displayed in the graphics since they are free movements and do not affect traffic operations at the signalized intersections. Attachment C of Appendix Q of the Final EIS/TEIR provides the I-15 NB and SB ramp volumes at Lenwood Road for all study scenarios.

Response to Comment A5-10

Refer to **Response to Comment A5-7** regarding the availability of the appendices of the TIA.

Response to Comment A5-11

The footnote referencing the 2007 Caltrans data is incorrect. During preparation of the TIA, the most recent available freeway volumes were provided by Horatius Petreaca since the Caltrans website only posted volumes as recent as 2007. Table 6-3 of the TIA should have stated the correct date of the volume data. However, in order to be consistent with the analysis year for intersections and street segments in the report, the freeway analysis has been revised to use the 2009 Caltrans volumes. The results of the analysis are summarized in summarized in Section 3.7, Section 4.7, Section 4.13 and Appendix Q of the Final EIS/TEIR. When updating the freeway volumes to 2009 conditions, a reduction in volumes was observed from the 2008 data. As shown in the updated analysis, all segments of I-15 are calculated to operate at acceptable levels of service during the mid-day and PM peak hours. No new significant effects were identified.

Response to Comment A5-12

The commenter requested that Tables 6-3, 9-3, and 11-3, should be divided into two segments from L Street to State Route (SR)-58 and from SR-58 to Lenwood Road, instead of L Street to Lenwood Road because the traffic volume changes after the I-15/SR-58 interchange. The freeway analysis has been revised to separate the segment of I-15 from L Street to Lenwood Road into two separate segments as requested. The results are presented in Tables 4.7-4, 4.7-7, 4.7-11, 4.13-9, 4.13-12, and 4.13-18 of the Final EIS/TEIR and in Appendix Q. No new significant effects were identified.

Response to Comment A5-13

The commenter states that Table 6–3 of the TIA provided as Appendix H in the Draft EIS/TEIR shows only one directional Average Daily Traffic (ADT) and should include total ADT of NB and SB. The ADT volumes in Table 6–3 of the TIA are two-way volumes and were provided by Caltrans Traffic Data Branch website which provides bi-directional ADT volumes. K and D factors provided by Caltrans data are then applied to the bi-directional ADT to determine the separate NB and SB peak hour volumes.

Response to Comment A5-14

Refer to **Response to Comment A5-7** regarding the availability of the appendices of the TIA.

Response to Comment A5-15

The commenter stated that all the existing and horizon years turning peak hour volumes need to be balanced. All area traffic volumes are balanced through the intersections, where appropriate (i.e. I-15 and SR-58 ramps). The figures of the TIA (Appendix H of the Draft EIS/TEIR) currently do not show the turn volumes onto the I-15/Lenwood Road NB and SB on-ramps, as these are free movements and do not affect the average delay and LOS operations at these intersections. The analysis uses the correct traffic volumes and accurately represents the existing and forecasted conditions. In addition, restaurant diverted link trips traveling north and south through the Lenwood Road/Mercantile Road intersection are assumed to be oriented to/from the various land uses between this intersection and the I-15 NB Ramps at Lenwood Road to the north. There are hotel land uses between the intersections of Lenwood Road/Mercantile Road and Lenwood Road/Project Access. Thus, the total project trips and existing trips traveling along these segments seem to “disappear” between intersections. Attachment C provides the I-15 NB and SB ramp volumes at Lenwood Road for all study scenarios.

Response to Comment A5-16

Comment noted. The District 8 Traffic Operational Surveillance unit will have a chance to review changes to the Draft EIS/TEIR and supplemental traffic analysis provided within Appendix Q of the Final EIS/TEIR prior to its approval.

COMMENT LETTER A6: CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

Response to Comment A6-1

As discussed in Section 2 of the Draft EIS/TEIR, Alternatives A and B include the acquisition of the 23.1-acre Barstow site into federal trust status on behalf of the Tribe. State and local agencies do not have jurisdiction over tribal trust lands. While the Barstow site is currently located within the jurisdictional boundaries of the Lahontan Regional Water Quality Control Board, the EPA and the Tribe will have the sole authority to regulate discharges to waters once the site is placed into federal trust. Similarly, Alternatives C and D are located on the Tribe’s existing Reservation, thus the State and San Diego Regional Board do not have permitting authority.

Response to Comment A6-2

Section 3.2 of the Draft EIS/TEIR describes the Lahontan Region Basin Plan and presents the beneficial uses of water resources and surface water quality objectives for the Mojave River Basin in which Alternatives A and B are located. Additionally, Section 3.2 of the Draft EIS/TEIR describes the San Diego Region Basin Plan and presents the beneficial uses of water resources and surface water quality objectives for the Warner Valley Basin in which Alternatives C and D are located. Section 4.2 of the Draft EIS/TEIR includes an evaluation of the potential impacts associated with construction and development of the project alternatives. For the development alternatives, implementation of mitigation measures presented in Section 5.2 of the Draft EIS/TEIR (which include Best Management Practices [BMPs] and storm water design provisions), lead to no adverse impacts to surface water resources as a result of the development alternatives. As stated in **Response to Comment A6-1**, the State does not have the authority to regulate water quality on tribal trust land. Therefore, the Draft EIS/TEIR assesses project compliance with applicable provisions of the Clean Water Act as enforced by the USEPA, the federal agency with jurisdictional authority within tribal trust lands.

Response to Comment A6-3

Potential permits and required approvals are listed in Table 1-1 within the EIS/TEIR and are described within Section 4.0 of the Draft EIR/TEIR under each appropriate resource heading. For example, Section 4.2 addresses the need for the Tribe to obtain coverage under the USEPA's National Pollutant Discharge Elimination System (NPDES) General Construction Permit, and Section 4.4 addresses the need for Section 404 CWA permits from the USACE for potential effects to water of the U.S. As indicated in **Response to Comment A6-1**, only federal and tribal laws are applicable within tribal trust lands, and the State would not have jurisdiction or permitting authority over the project site once in trust.

Response to Comment A6-4

As discussed in Section 2.2.1 of the Draft EIS/TEIR, stormwater would be directed towards the Lenwood Wash. In response to the comment, Sections 2.2.1 and 2.2.2 of the Final EIS/TEIR has been revised to clarify that stormwater run-off generated off site would be collected by culverts within the trust boundary and discharged on tribal trust land into a dissipating drainage feature prior to reaching the Lenwood Wash. Therefore, the discharge would be subject to USEPA regulation and would not adversely impact water quality.

Specific impacts to surface water resources are addressed in Section 4.2 (Water Resources) and Section 4.4 (Biological Resources) of the Draft EIS/TEIR. As discussed in Section 4.2 of the Draft EIS/TEIR, implementation of mitigation measures and incorporation of the grading and drainage plan features would prevent adverse impacts to surface water resources. Therefore, formal consultation with the California Department of Fish and Game (CDFG) or the Lahontan Regional Board is not required. The Draft EIS/TEIR adequately identifies the existing surface water resources in Section 3.0 and adequately assesses the potential impacts to water resources from project implementation in accordance with NEPA requirements.

The commenter states that the Draft EIS/TEIR must assess the effects of changes in the flow regime of downstream surface waters. As discussed in Section 4.2.1 of the Draft EIS/TEIR, drainage facilities have been incorporated into the project design to detain the increase in runoff on-site, maintaining the pre-development runoff rate to the Lenwood Wash. Therefore, the hydrology of the downstream watershed would not be significantly impacted as a result of implementation of the project alternatives.

The commenter provides a summary of Low Impact Development (LID) strategies and requests that the BIA require LID principles be incorporated into the project design, that natural drainage patterns be maintained to the extent feasible, and that both on-site and off-site storm water management strategies and BMPs are part of the planning process for both pre- and post-construction phases of the project. The commenter further states that the project must incorporate measures to ensure that stormwater generated by the project is managed on-site both pre- and post-construction and requests a statement concerning who will be responsible for ensuring post-construction BMPs along with requiring maintenance of the post-construction stormwater features. As discussed in Appendix E of the Draft EIS/TEIR, the drainage plan incorporated into the project design includes LID design principles such as gravel parking strips and parking end basins, use of landscaping to detain roof water discharges, retention basins, inundation areas, and reduction of outflows to pre-existing conditions. These features reduce impacts associated with stormwater generation as a result of development of the project site. Section 5.2 of the Draft EIS/TEIR presents the BMPs that would be incorporated into the Storm Water Pollution Prevention Plan (SWPPP) that would be developed in accordance with the USEPA's NPDES General Construction Permit. Based on the nature of the development and inclusion of a drainage plan in the project design, there are no off-site improvements required to implement the Proposed Project. The drainage plan ensures post-construction stormwater is adequately mitigated before flowing off site. The Tribe will be responsible for ensuring post-construction BMPs are implemented and the drainage features are maintained.

Response to Comment A6-5

Comment noted. At this time, the Regional Board has not issued a cease and desist order requiring upgrades to the City's wastewater treatment system or preventing additional connections to the wastewater treatment plant (WWTP). The Proposed Project would not exceed the permitted capacity of the WWTP, or trigger the need for upgrades to the system. The wastewater generated by the Proposed Project would be similar in quality to municipal wastewater currently treated at the WWTP, and would not cause the WWTP to exceed effluent limits established in the existing NPDES permit or exacerbate impacts to groundwater quality. As clarified in **Section 4.13.2** of the Final EIS/TEIR, should upgrades to the WWTP be required in the future due to more stringent waste discharge requirements that may be issued by the Regional Board, payments made to the City through the Municipal Services Agreement (MSA) would provide for the Tribe's fair share contribution to the improvements.

Response to Comment A6-6

Refer to **Responses to Comments A6-1 through A6-5**. Potential effects to water quality and resources are fully evaluated within Section 4.2 of the EIS/TEIR in accordance with NEPA requirements. LID strategies incorporated into the project design and the proposed drainage plan will minimize effects to water quality. Further, mitigation to minimize potential water quality impacts during construction is provided within Section 5.2, including recommended BMPs.

COMMENT LETTER A7: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Response to Comment A7-1

Comment noted. Copies of the Final EIS/TEIR will be sent to the USEPA as requested.

COMMENT LETTER A8: COUNTY OF SAN DIEGO

Response to Comment A8-1

San Diego County's concerns regarding the development of Alternatives C and D are noted and have been taken into consideration by the BIA in its selection of the Preferred Alternative. As discussed in Section 2.5 of the Final EIS/TEIR, the BIA's Preferred Alternative has been identified as Alternative B, which is located in San Bernardino County. The need for further environmental review of Alternatives C and D is addressed within the following responses to the commenter's detailed comments.

Response to Comment A8-2

Comment noted. Biological impacts associated with Alternative C are discussed in Section 4.4 of the EIS/TEIR. Refer to Section 2.5 of the Final EIS/TEIR regarding the BIA's selection of a preferred alternative.

Regarding the Dulzura pocket mouse and coast live oak woodland habitat, state and local regulations do not apply on existing tribal trust land. In accordance with NEPA, while the Dulzura pocket mouse is included in baseline descriptions, this species generally receives no specific protection on tribal trust land and is not afforded protection by the Federal Endangered Species Act (FESA). As stated in Section 4.4.3 of the EIS/TEIR, significant adverse effects to waters of the U.S. would not occur to San Ysidro Creek since this area is outside the area of development. Furthermore, the regulatory requirements and BMPs related to water resources presented in Section 5.2 would further reduce any adverse effects.

San Ysidro Creek does not provide habitat for Southwestern willow flycatcher as it lacks riparian vegetation required for this species to breed or forage. The Los Coyotes site does not provide habitat for least Bell's vireo because the site is outside of the known elevation range.

As stated within Section 3.4 of the Draft EIS/TEIR, suitable habitat for the Stephens' kangaroo rat exists within the grassland within the Los Coyotes site. If the United States Fish and Wildlife Service (USFWS) determines that the Stephen's kangaroo rat may occur on-site, determinant-level surveys shall be conducted and appropriate mitigation and avoidance measures recommended by the USFWS shall be implemented prior to and during construction and operation activities Section 7 Consultation with the USFWS regarding the Stephen's kangaroo rat.

As noted in Section 3.4 of the Draft EIS/TEIR of the biological resources section, the portion of San Ysidro Creek that runs within and adjacent to the Los Coyotes site does not provide suitable breeding habitat for arroyo toad because the drainage does not have persistent water flow or pools. Arroyo toad requires intermediate drainages and streams with minimal current or shallow, gravelly pools that persist

until at least July. There was no water present within the San Ysidro Creek during the May 2, 2006 biological survey of the Los Coyotes site. The small pools and wetland area in and adjacent to San Ysidro Creek approximately 200 yards downstream of the Los Coyotes site provide habitat, therefore, arroyo toad could infrequently occur on the Los Coyotes site, as arroyo toads can range up to a kilometer from their breeding areas during the nonbreeding season. Given the lack of known arroyo toad occurrences within 5 miles of the Los Coyotes site, the absence of water within San Ysidro Creek during the May 2, 2006 biological survey, which is required for arroyo toad to breed, and the lack of presence during the May 2, 2006 biological survey of the Los Coyotes site, it is unlikely for this species to occur within the Los Coyotes site.

Response to Comment A8-3

See **Response to Comment A8-1**.

Response to Comment A8-4

The commenter cites a study by the County of San Diego Health and Human Services Agency which concluded that there is a statistically significant increase in motor vehicle crashes and in alcohol-related crashes during construction and operation of a new casino in a rural area. The commenter states that these impacts have not been analyzed in the Draft EIS/TEIR under Alternative C. Currently, there are approximately 26 existing casinos and two proposed casinos within San Diego County, including the Santa Ysabel Casino located approximately 11 miles southwest of the Alternative C project site. As such, the regional population has historically been exposed to gaming establishments, and Alternative C would not introduce a new land use to the region that would be expected to significantly alter the behavior of the existing population. Although the Los Coyotes Reservation is located within a rural area, it is also located within a region with numerous existing tribal casino resorts, thus worst case effects as described in the study would not apply to the Los Coyotes project site. Potential impacts to crime under Alternative C, including driving under the influence of alcohol, are fully discussed in Section 4.6.3 of the Draft EIS/TEIR. As stated in Section 4.6.3, social impacts including crime from Alternative C would be comparable but to a lesser extent than Alternative A, since Alternative C is reduced in size and scope, and would be considered less than significant. Potential impacts to public services under Alternative C, including emergency medical response, have been fully discussed in Section 4.9.3 of the Draft EIS/TEIR. Please refer to **Response to Comment A8-35** regarding potential impacts to emergency services.

Response to Comment A8-5

San Diego County's willingness to enter into an MSA with the Tribe for compensation of services provided to the Reservation should Alternative C be chosen as the proposed project is noted. As described in Section 2.2.3, the Tribe is willing to negotiate appropriate compensation for services provided by San Diego County to Alternative C.

Response to Comment A8-6

The commenter states that the Draft EIS/TEIR fails to adequately address problem gambling prevention and alcohol abuse under Alternative C. The commenter requests that the Draft EIS/TEIR be revised to

include a problem gambling prevention program for Alternative C. As stated in Section 4.6.3, social impacts including pathological and problem gambling and crime from Alternative C would be comparable but to a lesser extent than Alternative A, since Alternative C is reduced in size and scope. Residents of San Diego County have been exposed to many forms of gambling, including destination casinos, for many years. An additional casino in San Diego County under Alternative C is not expected to substantially increase the prevalence of problem gamblers in the region. The Final EIS/TEIR has been revised to further clarify that a tribal compact with the State would include provisions for contribution to problem gambling addiction treatment programs under Alternative C. As such, no further mitigation is required.

Response to Comment A8-7

The commenter states that the potential impacts to crime under Alternative C have not been adequately addressed for Alternative C. As stated in Section 4.6.3, social impacts including crime from Alternative C would be comparable but to a lesser extent than Alternative A, since Alternative C is reduced in size and scope, and therefore would not be considered significant. Whenever large numbers of people are introduced into an area, the volume of crime would be expected to increase. This is true of any large-scale development. Taken as a whole, literature on the relationship between casino gambling and crime rates suggests that communities with casinos are as safe as communities without casinos. The National Opinion Research Center (NORC, 1999) found that insufficient data exists to quantify or determine the relationship between casino gambling within a community and crime rates. Alternative C would introduce a large number of patrons and employees into the area on a daily basis. As a result, under Alternative C, criminal incidents would be expected to increase proportionally in the project area, particularly at the project site, as with any other development of this size. However, as discussed under Section 4.6 of the Draft EIS/TEIR, tax revenues would be generated for federal, state and local governments from activities including secondary economic activity generated by tribal gaming. The taxes on secondary economic activity include: corporate profits tax, income tax, sales tax, excise tax, property tax, and personal non-taxes, such as motor vehicle licensing fees, fishing/hunting license fees, other fees, and fines. Additionally, the gaming compact will provide for revenue sharing between the Tribe and the State, as well as local governments. Increased tax revenues resulting from Alternative C would fund expansion of law enforcement services required to accommodate planned growth. Additionally, mitigation has been added to Section 5.9 requiring that the Tribe make a good faith effort to negotiate an agreement with San Diego County for the provision of law enforcement services. Thus, Alternative C would not result in significant adverse effects associated with crime.

Response to Comment A8-8

As mentioned by the commenter, the EIS/TEIR states that Alternatives C and D would both have the potential to adversely affect waters of the U.S., wetland features on-site, and the Quino checkerspot butterfly, the Laguna Mountains skipper, arroyo toad, the coastal California gnatcatcher, and Stephen's kangaroo rat; however, it should be noted that feasible mitigation was provided in the EIS/TEIR to reduce potential adverse effects to these species and, therefore, Alternative C and D are not 'infeasible' as was suggested by the commenter.

The commenter's suggestion that an alternative location on the Reservation could eliminate the potential impacts on sensitive biology and wetlands is not necessarily correct. As shown in Figure 3.4-7 of the EIS/TEIR, the entire Reservation has the potential to contain special status species; furthermore, much of the Reservation has similar habitat types which would likely result in similar potential impacts on sensitive biology and wetlands as Alternatives C and D. As described in Section 1.2 of the EIS/TEIR the Tribe's existing Reservation lands are remote, composed almost entirely of steep, rugged terrain, environmentally sensitive, and difficult to access, being surrounded by various state and federal forest, park and public domain lands. The location of Alternatives C and D was chosen because of its distance from existing tribal buildings and residences, distance from the Reservation borders, proximity to an existing access road, relatively flat topography, and relatively smaller areas of Coast Live Oak Woodland. An alternative on-Reservation site would not add in expanding the range of reasonable or feasible alternatives, nor would it further the objectives and goals of the Tribe, to which the BIA gives substantial weight and deference in light of the Tribe's role as applicant.

Response to Comment A8-9

As described in Sections 2.2.3 and 2.2.4, respectively, Alternatives C and D would be constructed in accordance with International Building Code. However, as discussed in Sections 4.1.3 and 4.1.4, the Los Coyotes site does not fall within an Alquist-Priolo Zone, and is therefore not subject to any building restrictions applicable to properties designated as such.

Response to Comment A8-10

As discussed in Section 2.2.3 of the Draft EIS/TEIR, Alternative C would be developed on tribal trust lands. The project site for Alternatives C and D is located approximately 3 miles inland from the Reservation boundaries and unincorporated land within San Diego County. Development of Alternatives C or D would require compliance with tribal ordinances and the Clean Water Act. As discussed in Section 4.2.3, the introduction of impervious surfaces increases the potential for entrained contaminants in stormwater runoff to adversely impact water quality. The implementation of the BMPs incorporated into the SWPPP in compliance with the USEPA's NPDES General Construction Permit would assure no adverse impacts to surface water resources would occur from construction or operation of Alternative C. In regards to flooding, the drainage plan would ensure less-than-significant flooding impacts as a result of the development of Alternative C. In response to comments received on the Draft EIS/TEIR, the Grading and Drainage discussions in Sections 2.2.3 and 2.2.4 of the Final EIS/TEIR have been revised to clarify that final design plans will be developed to ensure final elevations are above the 100-year floodplain elevation for the San Ysidro Creek.

The commenter provides significance criteria for Alternative C based on the California Environmental Quality Act (CEQA) Checklist in Appendix G of the CEQA Guidelines (CEQA Checklist). In accordance with the anticipated requirements of the Tribal-State Gaming Compact, the Draft EIS/TEIR assesses the potential for implementation of the project alternatives to significantly impact the off-reservation environment. This checklist was included as Appendix C of the Draft EIS/TEIR. The checklist includes significance criteria to assess the potential for significant off-reservation flooding impacts. The potential for flooding-related off-reservation impacts was addressed based on these criteria.

The commenter states that the mitigation measures included in the Draft EIS/TEIR for Water Resources are not adequate and additional analysis is needed to ensure that Alternative C and D comply with local and state water quality regulations, and should take into account the County's Standard Urban Stormwater Mitigation Plan (SUSMP). Please refer to the **Response to Comment A6-1** regarding jurisdictional authority over water quality on the proposed project site for Alternatives C and D. Accordingly, the SUSMP does not apply to the proposed project site for Alternatives C and D, although the BMPs and mitigation for Alternatives C and D are substantially similar to those required by the SUSMP.

The commenter states that Alternatives C and D are two very different uses and would have different impacts in regards to water resources and therefore the Draft EIS/TEIR should be revised for each alternative to better describe the BMPs and mitigation proposed for each alternative on an individual basis based on use. While the two alternatives for the Reservation project site are for different land uses, the acreage of disturbance is similar for both alternatives and associated water resources impacts would be similar. Therefore, the BMPs and mitigation would also be similar.

The implementation of surface water protection would protect groundwater recharge sources. The BMPs presented in Section 5.2 of the Draft EIS/TEIR include provisions to prevent runoff, contain runoff, or treat runoff. While these features focus on surface water and sedimentation, their implementation would also reduce the potential for contaminants to percolate into the groundwater. In addition, the BMPs listed in Section 5.11 (Hazardous Materials) of the Draft EIS/TEIR would further reduce the potential for construction-related contaminants to become entrained in surface water runoff, thereby protecting groundwater resources.

Response to Comment A8-11

The Draft EIS/TEIR provides an equal level of evaluation of proposed wastewater treatment facilities for each of the alternatives. Draft EIS/TEIR Section 4.2 provides the anticipated average daily wastewater flows for all the alternatives. While Alternatives A and B would connect to the municipal system, Alternatives C and D would result in the development of an onsite WWTP to serve the proposed developments. Details regarding the treatment process and required permitting are provided in Section 2.2.3 of the Draft EIS/TEIR. The potential impacts associated with wastewater facilities are addressed in Section 4.2 (Groundwater Quality) and impacts to public services are addressed in Section 4.9 (Wastewater Service). The Draft EIS/TEIR adequately assesses the wastewater facilities for Alternative C and D.

Sections 2.2.3 and 2.2.4 of the Final EIS/TEIR have been revised to clarify that the leach fields would be located south of the parking lot in Alternatives C and D as noted by the commenter.

Response to Comment A8-12

As discussed in the **Response to Comment A6-1**, the Tribe and the USEPA would have jurisdiction over the development of Alternative C. The well will be developed in a manner that is consistent with federal regulations and will therefore be protective of public health.

Compliance with the Safe Drinking Water Act is the responsibility of the Tribe with oversight provided by the USEPA. As described in Sections 2.2.3 and 2.2.4 of the EIS/TEIR, it is not likely that a water treatment facility would be needed as wells in the vicinity are of good quality and do not require filtration. The water system would be injected with chlorine to maintain a chlorine residual throughout the distribution system¹. The chosen development alternative would conform to, or exceed, all applicable drinking water standards.

As noted in the Draft EIS/TEIR, the Vista Irrigation District (VID) well field is located southwest of the Reservation. According to the VID 2010 Urban Water Management Plan, the Warner Basin has not been adjudicated nor identified as being in overdraft and VID studies indicate that the basin has approximately 150,000 acre-feet (AF) of usable storage. Since 1960, VID's median groundwater production has been 7,702 AF per year, and VID estimates that groundwater production will be maintained at this level through 2035. Therefore, the extraction of an additional 10,000 gallons per day (gpd) (equivalent to 11.20 AF per year) from the Warner Basin would not adversely impact groundwater supplies as concluded in the Draft EIS/TEIR.

Response to Comment A8-13

Groundwater levels would not prevent development of a leach field. As stated in Section 2.3.3, the Tribe would comply with the Underground Injection Control provisions of the Clean Water Act relating to disposal of treated wastewater. With proposed treatment at a level consistent with California recycled water standards, potential impacts would be insignificant.

The commenter states that the Draft EIS/TEIR indicates the leach fields would be located beneath the parking lot and that these designs are typically discouraged. Sections 2.2.3 and 2.2.4 of the Final EIS/TEIR have been revised to clarify that the leach fields would be located south of the parking lot, not beneath the parking lot.

The commenter's statement that the Draft EIS/TEIR mentions recycling of treated wastewater but does not provide specific statements concerning the uses is noted. Sections 2.2.3 and 2.2.4 of the Final EIS/TEIR have been revised to clarify that wastewater would be treated to allow for recycled water use for landscape irrigation or within restrooms.

As stated within the Draft EIS/TEIR, with the incorporation of project design features such as filter strips, storm water interceptors, and soil infiltration, Alternatives C and D would not adversely impact groundwater quality. The analysis to support the conclusion of "no adverse impact" on groundwater quality from Alternatives C and D is provided in Sections 4.2.3 and 4.2.4 of the EIS/TEIR, respectively.

As stated in Section 2.2.3 and 2.2.4, non-septic type wastewater treatment facilities would be developed to serve Alternatives C and D and, therefore, an expanded discussion of the existing issues at the campground restroom is not warranted in the Final EIS/TEIR.

¹ HydroScience Engineers, Inc (HSe). 2006. Barstow Hotel and Casino Water and Wastewater Feasibility Study. Sacramento, CA. October 2006.

Response to Comment A8-14

The commenter states that the project description is inadequate to determine air quality impacts because it does not specify the size of the area to be graded for the proposed facilities and off-site improvements. Air quality effects are analyzed in Section 4.3 of the Draft EIS/TEIR. Area graded is provided in Appendix L of the Draft EIS/TEIR. All on-site improvements are described in Section 2 of the Draft EIS/TEIR, and no off-site improvements for Alternatives C and D have been identified.

The commenter states that the Draft EIS/TEIR does not adequately evaluate the air quality impacts from construction and operation of Alternatives C and D. As described in Section 4.3.1 of the Draft EIS/TEIR, construction emissions were estimated using URBEMIS and are inclusive of all phases of construction. Appendix L of the Draft EIS/TEIR provides the URBEMIS output files which break down emissions from each phase of construction, including mass grading, fine grading, building, painting, and paving. No soil will be hauled off-site during the construction phase of the Proposed Project as the site is relatively flat and construction will balance cut and fill. Clarification has been added to Sections 4.3.4 and 4.3.5 of the Final EIS/TEIR.

The commenter states that the Draft EIS/TEIR does not include an evaluation of whether Alternatives C and D would result in a violation of the National Ambient Air Quality Standard (NAAQS) or the California Ambient Air Quality Standard (CAAQS). The project site is located on tribal trust land and is not under the jurisdiction of the State of California; therefore, the CAAQS do not apply. As stated in Section 3.4 of the Draft EIS/TEIR, San Diego County is in nonattainment for ozone under the NAAQS; therefore, project emissions were compared to the appropriate *de minimus* thresholds pursuant to the Clean Air Act's (CAA) General Conformity Rule (40 CFR § 93.153 [b][1] and [2]). As shown in Sections 4.3.4 and 4.3.5, and Tables 4.3-6, through 4.3-9 of the Draft EIS/TEIR, project emissions are below the *de minimus* thresholds and are therefore not significant. In accordance with the CAA's General Conformity Rule (40 CFR § 93.153 [b][1] and [2]) pollutants which are designated attainment in under the NAAQS (lead, carbon monoxide, and particulate matter 10 and 2.5 microns in size) are considered to conform to the applicable state implementation plan (SIP) and would not violate the NAAQS. Therefore, emissions of pollutants which are designated as attainment in the San Diego County Air Basin were considered to be less than significant. Project-related emissions from these pollutants are quantified and the results are provided in Appendix L of the Draft EIS/TEIR.

The commenter states that the Draft EIS/TEIR does not provide any meteorological or air quality data. Section 3.3.3 of the Draft EIS/TEIR, Environmental Setting, provides regional meteorology data as well as existing air quality data, which includes NAAQS designations.

The commenter states that the Draft EIS/TEIR does not indicate whether Alternatives C and D would conflict with or obstruct the San Diego Air Quality Strategy (SDAQS) or the SIP. As stated above the project site is located on tribal land and is therefore not under the jurisdiction of San Diego County. Therefore, the SDAQS is not applicable to the Proposed Project. As discussed above, emissions from the project were determined to be below *de minimus* thresholds and thus would not conflict with the SIP. Sections 4.3.4 and 4.3.5 of the Final EIS/TEIR have been revised to clarify that the Proposed Project would conform to the applicable SIP.

Response to Comment A8-15

The commenter states that the Draft EIS/TEIR does not include an analysis of sensitive receptors and a health risk assessment (HRA). As stated in Section 3.3 of the Draft EIS/TEIR, the nearest residence is two miles and the nearest school is six miles from the project site. Given the distance to the nearest sensitive receptors (2 miles), completion of an HRA is not warranted. Further, the increase in vehicle traffic resulting from Alternatives C and D is minimal (less than 200 peak hour vehicles) and emissions would be dispersed throughout the roadway network. Therefore, high concentrations of hazardous air pollutants would not occur. Soil contamination and hazardous materials are addressed in Section 4.11 of the Draft EIS/TEIR.

Response to Comment A8-16

The commenter states that the Draft EIS/TEIR does not analyze the cumulative air quality impacts of the Proposed Project. Cumulative effects to air quality from Alternatives C and D are discussed in Sections 4.13.4 and 4.13.5, respectively. As discussed therein, past, present and future development projects contribute to a regions air quality conditions on a cumulative basis; therefore by its very nature, air pollution is largely a cumulative impact. No single project is sufficient in size to, by itself; result in nonattainment of the NAAQS. If a project's individual emissions contribute toward exceedance of the NAAQS, then the project's cumulative impact on air quality would be significant. In developing attainment designations for criteria pollutants, the EPA considers the regions past, present and future emission levels. As shown in Tables 4.3-6 through 4.3-9 and Tables 4.13-19 and 4.13-23 the project emissions are below the de minimus level provided in the CAA; therefore, project-related emissions are not cumulatively significant.

Response to Comment A8-17

The commenter stated that the Draft EIS/TEIR did not address potential odors from the proposed alternatives. Odor was not raised as an issue in the scoping process; therefore, it was not included in the Draft EIS/TEIR. However, the TEIR Checklists included within Appendix C of the Draft EIS/TEIR, determined that the any odors generated by the project would have a less than significant effect on off-Reservation sensitive receptors. An odor analysis has been included in Section 4.3 of the Final EIS/TEIR.

Response to Comment A8-18

The commenter suggest that the Draft EIS/TEIR be revised to include a quantitative greenhouse gas (GHG) analysis of Alternatives C and D and that project significance should be based on San Diego County's thresholds. Because climate change analysis in environmental documents has rapidly evolved over the last several years, the climate change analysis in the Draft EIS/TEIR has been updated for all alternatives. This update was made so that the Final EIS/TEIR is consistent with the most recent climate change regulations and science. Because climate change is a global issue, the proposed project is a federal action, and Alternatives C and D are located on tribal trust land, it is appropriate to use federal thresholds to determine project-related climate change significance; however, the analysis provided in Section 4.13 of the Final EIS/TEIR includes a quantification of project-related GHG emissions and comparison of emissions to federal thresholds as well as an evaluation of the project's consistency with

the State's climate action strategies and reduction goals, which is consistent with San Diego County's reduction goal.

Response to Comment A8-19

There have not been any substantial modifications to the Los Coyotes Reservation since the May 2006 biological surveys with the exception of the addition of the Eagle Rock Training Center facilities and the after effects of large brush fire. The addition of the Eagle Rock facilities has resulted in a minor conversion of habitat within the Reservation, and the wildfire is estimated to have destroyed over 10,000 acres of vegetation; therefore, the background description of biological resources within EIS/TEIR provides a conservative baseline from which to measure potential biological effects resulting from Alternatives C and D. As noted in Section 2.5 of the Final EIS/TEIR, the BIA has not selected Alternative C or D as the preferred alternative. Should Alternative C or D later be selected for implementation, consultation with USFWS would be initiated in accordance with Section 7 of the FESA. Should protocol level surveys be required for potentially occurring federally listed wildlife within the Los Coyotes site, they would be conducted based on consultation with the USFWS through the Section 7 process. Refer to **Response to Comment A8-2** for a detailed discussion of federally listed species.

The Los Coyotes site is held in trust by the federal government. State and local regulations do not apply on existing tribal trust land. Although the CDFG's recommended protocol level surveys for plants are not required, none of the California Native Plant Society (CNPS) list of plants documented on the Hot Springs Mountain quad (except for Otay Manzanita) have the potential to occur within the Los Coyotes site because the site is either outside of the known elevation range or does not provide habitat. Otay Manzanita is an evergreen shrub that is evident and identifiable outside of the blooming season. The May 2, 2006 biological survey was conducted within the identifiable period for this species and included the entire Los Coyotes site. This species does not occur within the Los Coyotes site.

Response to Comment A8-20

The project site does not provide habitat for the Quino checkerspot butterfly. Rahn (1979) described the habitat of dwarf plantain (*Plantago erecta*), the main host plant for Quino checkerspot butterfly, as "dry sandy soil in dunes, grassy hills and flats, and clearings in woods." There are no records documented within 5 miles of the Los Coyotes site. The nearest record (California Natural Diversity Database [CNDDDB] Occurrence number 45) is from 2001 and is located approximately 8.5 miles northwest of the Los Coyotes site on the Aguanda quad. The May 2, 2006 biological survey was conducted within the blooming period for dwarf plantain, since this species flowers in April and May (Rahn 1979). No dwarf plantain was observed within the Los Coyotes site.

The proposed location for Alternatives C and D within the Los Coyotes site is appropriate given the minimal impacts to blue oak woodland, the extent of the surrounding blue oak woodland that would not be impacted by Alternatives C and D, and that state and local regulations do not apply on tribal land. No mitigation is included for the intermittent drainage and wetland area because neither would be impacted by Alternative C and D. As stated in Sections 4.3 and 4.4, potential waters of the U.S. would be avoided because the projects are designed outside of the area. In addition, the regulatory requirements and BMPs related to water resources presented in Section 5.2 would further reduce any adverse effects.

Response to Comment A8-21

As stated in Section 5.4 of the EIS/TEIR, a Biological Assessment would be prepared to initiate Section 7 consultation with USFWS for the Los Coyotes site if either Alternative C or Alternative D is selected as the preferred alternative. As noted in Section 2.5 of the Final EIS/TEIR, Alternative B was selected by the BIA as the preferred alternative; therefore, consultation with the USFWS for the Los Coyotes site has not been initiated and is not required at this time.

Response to Comment A8-22

As stated in Comment A8-19 above, the Los Coyotes site is held in trust by the federal government. Although the CDFG's recommended protocol level surveys for plants are not required, none of the CNPS list of plants documented on the Hot Springs Mountain quad (except for Otay Manzanita), which includes species within a five-mile radius of the Los Coyotes site, have the potential to occur because the site is either outside of the known elevation range or does not provide habitat. In conclusion, the Los Coyotes site does not provide habitat for Nevins Barberry and San Bernardino bluegrass.

Response to Comment A8-23

Comment noted. The Los Coyotes site is held in trust by the federal government. The proposed location for Alternatives C and D within the Los Coyotes site is appropriate given the minimal impacts to blue oak woodland, the extent of the surrounding blue oak woodland that would not be impacted by Alternatives C and D, and that state and local regulations do not apply on tribal land. There are very limited alternative locations within the Reservation that could feasibility be developable due to the steep topography and limited infrastructure. A discussion of alternative sites within the Reservation considered but eliminated from detailed evaluation is provided in Section 2.3 of the Final EIS/TEIR.

Response to Comment A8-24

As stated in Sections 4.3 and 4.4 of the EIS/TEIR, potential waters of the U.S. would be avoided through project design. In addition, regulatory requirements and BMPs related to water resources presented in Section 5.2 would further reduce any adverse effects. As stated by the commenter, Alternatives C and D occur on tribal land and Resource Protection Ordinance (RPO) compliance is not required.

Response to Comment A8-25

As noted within the Section 3 of the biological resources section, the portion of San Ysidro Creek that runs within and adjacent to the Los Coyotes site does not provide suitable breeding habitat for arroyo toad because the drainage does not have persistent water flow or pools. The small pools and wetland area in and adjacent to San Ysidro Creek approximately 200 yards downstream of the Los Coyotes site provide habitat, therefore, arroyo toad could infrequently occur on the Los Coyotes site, as arroyo toads can range up to a kilometer from their breeding areas during the nonbreeding season. Given the lack of known arroyo toad occurrences within 5 miles of the Los Coyotes site, the absence of water within San Ysidro Creek during the May 2, 2006 biological survey, which is required for arroyo toad to breed, and the lack

of presence during the May 2, 2006 biological survey of the Los Coyotes site, it is unlikely for this species to occur within the Los Coyotes site. The proposed location for Alternatives C and D within the Los Coyotes site is appropriate given the minimal impacts to blue oak woodland, the extent of the surrounding blue oak woodland that would not be impacted by Alternatives C and D, and that state and local regulations do not apply on tribal land.

Response to Comment A8-26

All public information described within the confidential cultural resources technical report is provided within Sections 3.5, 4.5 and 5.5 of the EIS/TEIR.

Response to Comment A8-27

A description of the records search radius and previously conducted surveys within the study area is provided in Section 3.5.3 (Barstow Site) and Section 3.5.5 (Los Coyotes Site) of the EIS/TEIR. Further clarification of the scope and area of the records search has been provided within the Final EIS/TEIR.

Response to Comment A8-28

The Los Coyotes site is located within the Tribe's Reservation, and is not subject to County regulations and standards. Consultation with the Los Coyotes Tribe indicates that there is no new information pertaining to the location of cultural resources within the Tribe's Reservation since the 2006 survey and sacred lands request.

Response to Comment A8-29

Provisions for the discovery of unanticipated archaeological and paleontological resources are provided in Section 5.5 of the EIS/TEIR.

Response to Comment A8-30

The Commenter states that page 3.6-6 of the Draft EIS/TEIR uses data compiled from 2004 to discuss the demographics of the labor force in San Diego County. As shown in Section 3.6 (Table 3.6-7), the labor demographic data for San Diego County was obtained for 2010, not 2004 as the commenter implies. The reference to 2004 information on page 3.6-6 is related solely to a description of the largest industries in San Diego County, and represents the most recent information related to San Diego County industries available. The description of industries located in San Diego County is provided for general information only and does not affect the evaluation of potential impacts presented in Section 4.6.

Response to Comment A8-31

The commenter states that implementation of Alternative C and D would result in a substantial increase in traffic, which would warrant widening Camino San Ignacio Road. The commenter requested that the Final EIS/TEIR discuss how the Tribe would mitigate this impact. Impacts to San Ignacio Road were analyzed within the TIA provided as Appendix H and summarized in Section 4.7.4 of the Draft EIS/TEIR. As shown in Table 4.7-16 of the Draft EIS/TEIR and Table 4 of the TIA (Appendix H of the

Draft EIS/TEIR), Camino San Ignacio Road would function at LOS A with the addition of project traffic generated by Alternative C for both the buildout and cumulative year 2030 conditions. No mitigation is warranted by the Tribe.

Response to Comment A8-32

The commenter stated that the Eagle Rock Military Camp should be considered in the cumulative traffic condition. The trips generated by the Eagle Rock Military Camp project are taken into consideration in the background horizon year 2030 as part of the two percent increase in the background traffic volume (refer to Section 4.13.4 of the Draft EIS/TEIR).

As shown in Section 4.13.4 and 4.13.5 of the EIS/TEIR, Camino San Ignacio Road would operate at LOS A in the cumulative year 2030. The project would generate a maximum of 172 Saturday peak-hour trips, which would be dispersed throughout the roadway network. With this minor increase in project-related traffic, all intersections and roadways in the project's study area would operate at LOS C or better in the cumulative year 2030, which does not exceed the County's significance criteria of LOS D (refer to Section 4.13 of the Draft EIS/TEIR). No adverse effects to study area intersections or roadways would occur in the cumulative year 2030; therefore, no mitigation is warranted.

Response to Comment A8-33

The commenter states that the trip generation methodology/rate is not clearly outlined and based on the County's trip generation methodology, Alternative C would generate 1,600 trips. The methodology used to develop the trip generation rate applied to Alternative C is outlined in Section 4.7.1 of the Draft EIS/TEIR and described in detail within the TIA provided as Appendix H of the Draft EIS/TEIR (pages 20-21). As discussed therein, trip generation estimates were based on investigation of trip generation characteristics at other Indian casinos. This methodology is similar to the methodology used in San Diego's 2003 *Traffic Needs Assessment of Tribal Development Projects*. It should be noted that the San Diego trip generation rate is based on gaming floor size and the Shingle Springs trip generation rate is based on the overall size of the proposed development.

Response to Comment A8-34

The commenter states that an encroachment and construction permit is required for any work done in the County road right-of-way. Comment noted. As described in Section 1.4 of the Draft EIS/TEIR an encroachment and construction permit is required for all work done within the County road right-of-way for Alternatives C and D.

Response to Comment A8-35

As discussed in Section 2.5 of the Final EIS/TEIR, the BIA's Preferred Alternative is identified as Alternative B. San Diego County's willingness to enter into an MSA with the Tribe for compensation for fire and emergency services provided to the Reservation should Alternative C or D be chosen as the proposed project is noted.

As described in Sections 2.2.3 and 2.2.4 of the EIS/TEIR, respectively, Alternatives C and D would be constructed in accordance with the International Building Code. Sections 4.9.3 and 4.9.4 have been revised to specify that all construction associated with Alternative C and D would be done in accordance with the applicable fire protection criteria of the International Building Code.

Sections 4.9.3 and 4.9.4 acknowledge that Alternatives C and D would increase the number of visitors in the area, which would result in the need for increased fire protection and emergency medical services. Primary fire service to the Reservation is currently and will continue to be provided by the California Department of Forestry and Fire Protection (CDF) Warner Springs Station, located approximately 10 miles from the Reservation, through an existing agreement with the BIA. The Sunshine Summit Volunteers would continue to provide secondary service to the Reservation, and as such would experience a smaller increase in demand from the Reservation than the Warner Springs Station. As described in Sections 2.2.3 and 2.2.4, respectively, the Tribe is willing to provide appropriate compensation for services provided by San Diego County to Alternative C or D, should either of those alternatives be selected in lieu of Alternatives A and B. Sections 4.9.3, 4.9.4, and 5.9 have been revised to specify that the Tribe would also provide compensation to San Diego County for fire services provided. Services eligible for compensation would include the increased use of appropriate apparatuses and trained personnel in relation to the construction and operation of Alternative C or D.

Mitigation has been added to Section 5.9 to ensure that the technical report regarding fire service recommended by the commenter be conducted prior to the operation of either Alternative C or D and that recommendations of the report be incorporated into the project design and serve as the basis for determining the appropriate level of compensation to San Diego County. Sections 4.9.3 and 4.9.4 have been revised to include a discussion of the technical report added as mitigation.

Response to Comment A8-36

Please refer to **Response to Comment A8-35** regarding the acknowledgement within the EIS/TEIR that Alternatives C and D would increase the number of visitors in the area, which would result in the need for increased fire protection and emergency medical services and the addition of mitigation to Section 5.9.

Response to Comment A8-37

As described in Sections 2.2.3 and 2.2.4 of the EIS/TEIR, respectively, Alternatives C and D would be constructed in accordance with the International Building Code. Sections 4.9.3 and 4.9.4 have been revised to specify that all construction associated with Alternative C and D would be done in accordance with the applicable fire prevention criteria of the International Building Code. Please refer to **Response to Comment A8-35** regarding additional mitigation that has been added to Section 5.9.

Response to Comment A8-38

As described in Sections 2.2.3 and 2.2.4 of the EIS/TEIR, respectively, Alternatives C and D would be constructed in accordance with the International Building Code. Please refer to **Response to Comment A8-35** regarding additional mitigation that has been added to Section 5.9.

The distance to the CDF Warner Springs Station has been revised in Section 3.9.6; however, an estimated response time of 10 minutes, provided by Captain Johnson of the CDF, was already included in the section. The distance and response time provided by the commenter for the Sunshine Summit Volunteers has been added to Section 3.9.6 of the EIS/TEIR.

Response to Comment A8-39

As described in Sections 2.2.3 and 2.2.4 of the EIS/TEIR, respectively, Alternatives C and D would be constructed in accordance with the International Building Codes, which includes criteria for fire prevention. Please refer to **Response to Comment A8-35** regarding the mitigation that has been added to Section 5.9.

Please refer to the discussion of fire flow requirements for Alternatives C and D within Sections 2.2.3 and 2.2.4, respectively.

Response to Comment A8-40

Please refer to **Response to Comment A8-35** regarding the mitigation that has been added to Section 5.9. It should be noted that, as described in Section 3.9.6, Mercy Air provides emergency air transport which would shorten travel time to the Palomar Medical Center.

Response to Comment A8-41

As noted on the EIS/TEIR Checklists for Alternatives C and D included within Appendix C of the EIS/TEIR, construction of these alternatives would not involve changes to the existing environment which due to their location or nature, could result in conversion of off-Reservation farmland to non-agricultural use. Sections 4.8.3 and 4.8.4 have been revised to include a brief discussion of impacts to off-site agricultural resources from Alternatives C and D.

Response to Comment A8-42

As described in Section 4.8.3 of the EIS/TEIR, sites receiving a total score of less than 160 on the Farmland Conversion Impact Rating (FCIR) form need not be given further consideration for protection and no additional sites need to be evaluated (7 CFR §658.4). As indicated on the FCIR form included as Appendix I of the EIS/TEIR, the Los Coyotes site has a combined land evaluation and site assessment score of 108; therefore, no additional sites need to be evaluated as suggested by the commenter. Further the site is located on tribal trust land and has not historically been used for agricultural purposes by the Tribe.

Response to Comment A8-43

The commenter stated that additional information is required to determine if off-site noise impacts would occur and if impacts occurred would they be significant when compared to the County's Noise Element standards. The project site is located on tribal trust land and is therefore not under the jurisdiction of the County or subject to the County's General Plan Noise Element. Federal significance criteria are provided

in Section 4.10, Table 4.10-1 of the EIS/TEIR. Noise impact analysis for Alternatives C and D has been updated in Sections 4.10.3 and 4.10.4 of the Final EIS/TEIR to include the location of noise sensitive receptors on Camino San Ignacio Road, identification of noise sensitive receptors, quantification of increased noise due to traffic, and comparison of the increase ambient noise level to appropriate noise standards. It was determined that the increase in ambient noise level due to increased traffic along Camino San Ignacio Road would not exceed the applicable noise standards; therefore, no new impacts were identified. Refer to **Response to Comment A8-31** regarding widening of San Ignacio Road.

Response to Comment A8-44

As described in Sections 4.9.3 and 4.9.4 of the EIS/TEIR, waste from the construction of Alternatives C and D that cannot be recycled would most likely be disposed of at the Ramona Landfill, which accepts construction/demolition materials. As described in Section 5.3 of the EIS/TEIR, a Solid Waste Management Plan (SWMP) shall be adopted by the Tribe that addresses recycling and solid waste reduction on-site. The plan shall have at least a 50 percent diversion goal, which includes reduction, recycling, and reuse measures. References to this mitigation have been added to the appropriate sections in Section 4.9.

Response to Comment A8-45

As described in Section 3.11.2, AES reviewed an updated database report for the Los Coyotes site in April 2006 and again in February 2009. Correspondence with the Tribe and review of the 2009 report did not identify any new concerns regarding hazardous materials that would prompt another survey of the site.

Response to Comment A8-46

The cumulative analysis of Alternative C has been clarified to note that only projects within San Diego County's jurisdiction would be required to comply with San Diego County ordinances while projects outside of the County's jurisdiction would be subject to federal and/or state regulations. Federal environmental regulations are intended to protect national environmental resources from actions involving federal oversight. Although the commenter believes federal regulations are less restrictive than State and local law, the Tribe is a sovereign government that has the authority to determine the appropriate environmental protections for land over which it exercises jurisdiction including the project site for Alternatives C and D. With the incorporation of mitigation included within Section 5.0 of the EIS/TEIR and compliance with applicable federal and tribal regulations, Alternatives C and D would not result in adverse cumulative effects.

Response to Comment A8-47

San Diego County's concerns regarding the development of Alternatives C and D are noted and have been taken into consideration by the BIA in its selection of the Preferred Alternative. As discussed in Section 2.5 of the Final EIS/TEIR, BIA's Preferred Alternative is identified as Alternative B, which is located in San Bernardino County. The need for further environmental review of Alternatives C and D is addressed within the previous responses to the commenter's detailed comments.

San Diego County's willingness to enter into an MSA with the Tribe for compensation of services provided to the Reservation should Alternative C or D be chosen as the proposed project is noted. As described in Section 2.2.3 and 2.2.4, the Tribe is willing to provide appropriate compensation for services provided by San Diego County to Alternative C or D.

COMMENT LETTER A9: COUNTY OF SAN BERNARDINO

Response to Comment A9-1

The commenter states that the County of San Bernardino does not have jurisdiction over the Tribe's trust lands, nor the sites proposed for Alternatives A and B which are located in the incorporated area of the City of Barstow. Therefore, the commenter states, comments will be based on resources usage, traffic impacts and environmental impacts within the County's unincorporated areas relating to Alternatives A and B. The commenter accurately summarizes the zoning designation for the proposed projects as determined by the City of Barstow. The commenter also accurately describes the land use and development plans, water resources, and MSA with the City of Barstow. Refer to Section 3.8 of the Draft EIS/TEIR for additional information regarding land use and zoning, and Section 4.8 of the Draft EIS/TEIR regarding the Municipal Services Agreement.

Response to Comment A9-2

The portions of Lenwood Road and Main Street analyzed in the TIA (Appendix H of the Draft EIS/TEIR) are located within the City of Barstow. The TIA accurately identifies Lenwood Road and Main Street as a Major Highway, as identified on the City of Barstow Circulation Plan, December 1996 and County of San Bernardino Circulation Plan, December 2005. As stated in the TIA, the proposed drive-in restaurant would be similar in nature to a Sonic Drive-In. This type of eatery operates differently than a typical fast food restaurant. The drive-in spaces provided serve as indoor tables in effect, since patrons drive into the canopy space and remain in their automobiles while ordering and eating their meal. Therefore, the ITE trip generation rate for "high-turnover (sit-down) restaurant" is most appropriate and was used to determine the number of trips generated by the restaurant. The section of Lenwood Road between Main Street and SR 58 was not analyzed because only 5 percent of project-related traffic is forecasted to use this roadway, which equates to 300 Weekday ADT and 460 Weekend ADT. The project adds only 5 percent because the majority of project-related traffic will be oriented to/from the freeway. The existing volumes on this portion of Lenwood Road are about 3,000 ADT which equates to LOS A operations. The addition of project-related traffic will result in continued LOS A operations. Therefore, no significant impact would occur and mitigation is not warranted.

Response to Comment A9-3

The commenter states that although the project is within the Barstow Fire Protection District (BFPD) service area boundaries, if a significant event were to occur, BFPD would rely on mutual aid from the San Bernardino County Fire Department and would request resources, staffing and equipment to respond to the incident. The commenter relays the San Bernardino County Fire Department's recommendations of upgrading staff at Station 53 and Station 4, and contributing to the vehicle replacement fund at both stations to better prepare for mutual aid calls from BFPD. As stated in Section 3.9.6, the BFPD currently

has Automatic and Mutual Aid Agreements with San Bernardino County Fire as well as Marine Base Fire, Fort Irwin Fire, and with volunteer departments in Daggett, Yermo, and Newberry. These existing Automatic and Mutual Aid Agreements are adequate to address any potential increase in demand for emergency and fire services. Please refer to Section 3.9.6 of the Draft EIS/TEIR for additional information regarding fire protection and emergency services.

Response to Comment A9-4

The provisions of SB610 concerning the preparation of Urban Water Management Plans and associated water supply assessments and the State of California Model Water Efficient Landscape Ordinance do not apply to federal actions, and accordingly do not apply to either Alternative A or B. A complete analysis of potential effects on the Golden State Water Company is provided in Section 4.9 of the EIS/TEIR. As concluded therein, Alternatives A and B would not result in adverse effects to municipal water supply systems.

Response to Comment A9-5

The commenter stated that Alternative B would result in fewer impacts than Alternative A in the following categories: topography and landslides, expansive soils, soil corrosivity, seismicity, liquefaction, lateral spreading, seismically induced flooding, agriculture, existing land uses, mineral resources, traffic congestion, mobile air emissions and traffic related noise. The commenter states that Alternative B would demand 34 percent less water than Alternative A and therefore would result in less of an impact to water resources and wastewater treatment. The commenter expresses their belief that Alternative B will have less cumulative impacts than Alternative A. The commenter reiterates the fact that the County of San Bernardino does not have jurisdiction over the proposed project sites. Comments noted.

COMMENT LETTER A10: CITY OF BARSTOW

Response to Comment A10-1

The commenter states that the City of Barstow limited its review to Alternatives A and B since Alternatives C and D are outside the City's geographic area of influence. The commenter references the Draft EIS/TEIR in stating that Alternative B would not result in any potentially significant adverse environmental impacts that cannot be reduced to below a level of significance. The commenter expresses their opinion that the distinction between Alternatives A and B is relatively minor. The commenter notes that while Alternative A would require greater traffic mitigation and infrastructure needs, the impacts can be reduced to below levels of environmental significance. Comments noted.

Response to Comment A10-2

The commenter states that there is a flaw in the trip generation rate and details of this flaw are provided in later comments. The commenter states the proposed project has changed over the last five years and the current size of the project has greatly reduced potential physical effects, including traffic. The trip generation rate is discussed in **Response to Comment A10-19**.

Response to Comment A10-3

Comment Noted. The MSA between the City of Barstow and the Tribe was described in Section 2.0 and included as Appendix D of the EIS/TEIR.

Response to Comment A10-4

Please refer to Section 1.3 of the EIS/TEIR for an overview of the environmental process including project specific milestones.

Response to Comment A10-5

The BIA NEPA Handbook does not require the use of alpha/numeric identifiers for mitigation measures. Mitigation measures within the Mitigation Monitoring and Enforcement plan (MMEP) are clearly listed by issue area, similar to Section 5.0 of the EIS/TEIR.

Response to Comment A10-6

The commenter requests that Table ES-1 clearly indicate the residual level of impact for all impacts requiring mitigation. Table ES-1 has since been updated to incorporate the residual level of impact following mitigation measures. Refer to the Executive Summary in the Final EIS/TEIR.

Response to Comment A10-7

Comment Noted. The scoping process for the EIS/TEIR is summarized in Section 1.0 of the EIS/TEIR.

Response to Comment A10-8

The scope of the commenter's review is noted.

Response to Comment A10-9

The commenter states that Section 2.4 of the EIS/TEIR should indicate impacts considered less than significant without mitigation, significant impacts that can be reduced to less than significant levels through mitigation measures, and unavoidable impacts for each alternative. Impacts and recommended mitigation measures are described in detail in Chapter 4.0, Environmental Consequences, and Table ES-1 of the EIS/TEIR. Additional discussion in Section 2.4 is not warranted.

Response to Comment A10-10

NEPA does not require that a preferred alternative be identified in a Draft EIS/TEIR. The BIA's Preferred Alternative is described in Section 2.5 of Volume II of the Final EIS/TEIR.

Response to Comment A10-11

The locations of potential easements for infrastructure service lines are described in Chapter 2.0 and Sections 3.9 and 4.9 of the EIS/TEIR. The potential effects from installation of the off-site infrastructure

service lines are discussed in Section 4.14.1 of the EIS/TEIR and effects from installation of utilities within the project site are analyzed under each issue are in Chapter 4.0 of the EIS/TEIR. Specific plans for utility easements have not been developed at this stage in the project planning process. As described in Section 2.2.1 of the EIS/TEIR, the Tribe will contract with the City to provide planning, building and safety, fire prevention, and public works personnel to review construction plans and inspect construction of improvements on or off the Trust lands, including the installation of infrastructure service lines. An illustration of the potential easements is not necessary to analyze potential impacts of the infrastructure service lines.

Response to Comment A10-12

Comment noted.

Response to Comment A10-13

Comment noted.

Response to Comment A10-14

As described within Section 4.12, development of Alternative A and B would generally conform to the guidelines contained in the Lenwood Specific Plan (LSP), as required by the MSA. Adherence to the design guidelines contained in the LSP as required by the MSA would reduce the project's aesthetic effects to less than significant. An architectural rendering is provided as Figure 2-7 within the EIS/TEIR. The ultimate design of the chosen alternative is subject to change within the confines of the guidelines as well as any recommended mitigations within the EIS/TEIR. Furthermore, in accordance with the MSA the Tribe will contract with the City to provide planning, building and safety, fire prevention, and public works personnel to review construction plans, providing the City an opportunity to ensure that the chosen alternative is in compliance with the LSP.

Response to Comment A10-15

The commenter states that the air quality analysis does not compare project-related emissions to those that would be generated by previously assumed "Transportation Related Commercial" land uses designated within the LSP.

As discussed in Section 3.8.1 of the Draft EIS/TEIR, the project site is designated as "Visitor-Serving Commercial" within the Barstow General Plan, and as "Commercial-Recreational/Transition" within the LSP. The LSP does not provide parameters for the intensity of land uses within the Commercial-Recreational/Transition designation. As noted in Section 4.8.1 of the Draft EIS/TEIR, the commercial and recreational character of Alternatives A and B would be generally consistent with the land uses envisioned for the project site within the LSP. Because there are no development plans for the project site other than those evaluated within the EIS/TEIR, it is unknown what the level and intensity of uses would ultimately be under the existing land use designation. Therefore, a comparison of emissions under the Proposed Project to those that would occur under the LSP build-out condition would be speculative.

Section 4.8 of the Final EIS/TEIR provides an expanded discussion of potential effects resulting from the project alternatives associated with land use planning.

Response to Comment A10-16

Please refer to **Response to Comment A9-4** concerning the applicability of SB 610 and the need to prepare a Water Supply Assessment.

Response to Comment A10-17

The commenter expresses their opinion that Section 4.6 appears complete. Comment noted.

Response to Comment A10-18

Please see **Response to Comment A10-11** regarding an illustration of the existing and proposed utilities. The stormwater collection system for each alternative is discussed within the Grading and Drainage section within each alternative's project description in Section 2.0 of the EIS/TEIR. In addition, the Drainage and Water Quality Analysis for Alternatives A and B is included as Appendix E of the EIS/TEIR.

Response to Comment A10-19

The terminology in the EIS/TEIR has been revised as suggested to categorize the trip reduction as "diverted link" rather than "pass-by". This is the proper term given that trips are assumed to exit the Lenwood Road interchange from I-15 to reach the project site. The TIA is conservative in using 40 percent diverted link trips for the casino and 20 percent for the restaurant as opposed to the recommended 40 percent diverted link reduction for all land uses. Thus, no change to the trip generation volumes is warranted.

Response to Comment A10-20

In response to this comment, additional analysis has been conducted to analyze the 2:00 PM to 4:00 PM Sunday peak hour condition. This time period was selected based on previous traffic analyses conducted in the area identifying this hour as the peak period for Sunday area traffic. Section 4.7, Section 4.13 and Appendix Q of the Final EIS/TEIR provides the Sunday PM peak hour analysis for study area intersections. As noted in Appendix Q of the Final EIS/TEIR, all intersections in the study area would continue to operate at an acceptable LOS with mitigation. No new significant effects were identified.

Response to Comment A10-21

As stated in Section 4.7 and 4.13 of the EIS/TEIR, all intersections within the study area would operate at an acceptable LOS with mitigation. Tables 13-1 and 13-2 within the TIA (Appendix H of the Draft EIS/TEIR) provide the LOS after mitigation is implemented at the intersection of Lenwood Road and the Project Access Driveway (LOS C).

Response to Comment A10-22

Comment noted. See **Responses to Comments A10-19, A10-20, and A10-21**.

Response to Comment A10-23

The commenter expresses their opinion that Section 4.13 appears complete. Comment noted.

Response to Comment A10-24

A Mitigation Monitoring and Enforcement Plan (MMEP) is not required to be included in the Final EIS/TEIR by NEPA. The requirement within 40 CFR 1505.2(c), as referenced by the commenter, only pertains to the Record of Decision. A MMEP will be developed as required by NEPA and included as an attachment to the BIA's Record of Decision. Please refer to **Response to Comment A10-5** regarding the organization of the mitigation measures within the MMEP.

Response to Comment A10-25

As discussed in **Section 2.2**, the Tribe would adopt building standards and codes no less stringent than the City. In addition, the Tribe would contract with the City to provide planning, building and safety, fire prevention, and public works personnel to review any and all construction plans and inspect construction of all improvements on or off the Trust lands. Because this is included as part of the MSA and within the project descriptions of Alternatives A and B, the commenter's suggested mitigation is not warranted. Furthermore, as discussed in **Response to Comment A10-24**, the MMEP is required under NEPA as part of the BIA's Record of Decision. A reference to specific local municipal codes is not required.

Response to Comment A10-26

Please see **Response to Comment A10-25** and **Response to Comment A10-6** regarding relevant levels of significance for each issue area.

Response to Comment A10-27

The commenter expresses their opinion that Sections 6.0 and 7.0 appear complete. The commenter expresses appreciation for the opportunity to review the Draft EIS/TEIR and requests that a copy of the Final EIS/TEIR be sent to the City of Barstow once it is released to the public. Comments noted.

COMMENT LETTER A11: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Response to Comment A11-1

As shown in Sections 4.7 and 4.13 of the Draft EIS/TEIR, the I-15 NB/SB off-ramps and Lenwood Road intersections were found to operate at an acceptable level of service with the project-related traffic, however, upon further analysis provided in Section 4.13 and Appendix Q of the Final EIS/TEIR, it was determined that the project's contribution to traffic queuing in the cumulative year 2035 at I-15 NB off-ramp may be considered an adverse effect (refer to **Response to Comment A5-2**). Additional mitigation measures have been provided in Section 5.7 of the Final EIS/TEIR, which include signs on I-15 south of

Outlet Center Drive that direct traffic to Outlet Center Drive and installation of signals at Outlet Center Drive. The Tribe would provide its fair share contribution to these mitigation measures when they are implemented.

Response to Comment A11-2

Refer to **Response to Comment A8-4** regarding potential impacts associated with crime. Increased tax revenues resulting from the Proposed Project would fund expansion of law enforcement services required to accommodate planned growth. Further discussion has been provided in Section 4.9 of the Final EIS/TEIR to clarify that payments to the State under the Tribal-State compact would offset any increases in services demands.

COMMENT LETTER A12: CALIFORNIA DEPARTMENT OF FISH AND GAME

Response to Comment A12-1

Comment noted. While the CDFG comments were submitted outside of the NEPA comment period, the BIA is treating them as a late comment letter on the scope and adequacy of the EIS/TEIR. Detailed responses to CDFG's comments are provided below.

Response to Comment A12-2

The CDFG stated that surveys would be required for the following species in order to determine if the construction and operation of the casino would impact these species: desert tortoise, Mohave ground squirrel, burrowing owl, sharp-shinned hawk, prairie falcon, ferruginous hawk, Cooper's hawk, LeConte's thrasher, desert kit fox, and Mohave monkeyflower.

As stated in the biological resources section on page 3.4-6 of the Final EIS/TEIR, special-status species that are formally listed by the state and/or recognized by state agencies, CNPS, or other local jurisdictions because of their rarity or vulnerability to habitat loss or population decline generally receive no specific protection on tribal lands taken into trust by the federal government. Federally recognized Tribes are regarded as independent and sovereign nations. While Tribes have no formal obligation to protect or preserve special-status species other than those that are federally listed, because the Barstow site is not currently federal trust land, potential impacts to state listed species are discussed in Section 4.4 and mitigation to reduce potential effects to state listed species is recommended in Section 5.0.

As stated on page 3.4-5, a list of regionally occurring special-status species reported in the scientific database queries was compiled for the project site and is presented in Appendix F of the Draft EIS/TEIR and Appendix S of this Final EIS/TEIR. State and CNPS listed species with the potential to occur within the project site are described in Table 3.4-1, and federal listed species are described in Table 3.4-2 of the Final EIS/TEIR.

Desert tortoise

Protocol level surveys were conducted for desert tortoise. Mitigation measures are identified in Section 5.4 of the Final EIS/TEIR to avoid or minimize potential impacts to this species. In a letter dated July 6, 2012, the USFWS Ventura Office concurred with the BIA's finding that the Proposed Action is not likely to adversely affect desert tortoise with the implementation of the mitigation measures recommended within the Final EIS/TEIR and Biological Assessment included as Appendix T.

Mohave ground squirrel

As stated on page 3.4-10 of the Final EIS/TEIR, the state threatened Mojave ground squirrel is the only state-listed mammal species that is reported to occur within five miles of the project site that has potential to occur on-site. Mohave ground squirrel was not observed during the May 3 and 4, 2006 and March 29 and 30, 2012 field assessments, which were conducted during the appropriate identification period for this species. As stated on page 4.4-2 of the Final EIS/TEIR, while this species has been known to occur on the edge of human development near Barstow, this species typically occurs within habitats that have minimal human activity. Development of Alternative A would reduce the amount of undisturbed habitat available to this species. However, abundant undisturbed habitat exists to the south and to the east of the Barstow site. As such, development of the Proposed Action would not result in significant adverse effects on the Mojave ground squirrel.

Special Status Birds

All birds present in the vicinity of the project site were noted during the biological surveys conducted during the field assessments on May 3 and 4, 2006 and March 29 and 30, 2012. As specifically stated within Section 3.4 of the Final EIS/TEIR, no western burrowing owl, prairie falcon, or LeConte's thrasher was observed during the field assessments. Although ferruginous hawk and sharp-shinned hawk are not specifically discussed as they are not federal or state listed species, they were not observed during the field assessments. Further, all of these species are protected under the MBTA, and would be identified during the preconstruction bird surveys should construction activities commence during the nesting season. Mitigation measures in Section 5.4.4 of the Final EIS/TEIR fully address impacts to migratory nesting birds.

Desert kit fox

Desert kit fox was not identified on the CDFW list generated for the project site and surrounding quads. Therefore, the project site is not located within the known geographic range for the desert kit fox. There are no CNDDDB records for desert kit fox within five miles of the project site. It should be noted that no desert kit fox, dens, or other sign was observed during biological surveys of the site conducted in May 2006 and March 2012.

Mohave monkey flower

Mojave monkey flower has the potential to occur within the project site. As discussed in Section 3.4 of the Final EIS/TEIR, this species was not observed during the field assessment on May 3 and 4, 2006, which was conducted during the blooming season. Therefore this species does not occur within the site.

Response to Comment A12-3

Table 2-2 in Section 2.2.1 of the Final EIS/TEIR presents the average water demand for the Proposed Project as 225.6 acre-feet per year (ac-ft/yr). In accordance with the Municipal Services Agreement between the City and the Tribe, water service would be provided by the Golden State Water Company (GSWC) and therefore development of the Proposed Project would not require the use of on-site groundwater resources. GSWC obtains its water supplies from 23 groundwater supply wells within the Mojave River Groundwater Basin (Basin). In accordance with a 1996 judgment in the case *City of Barstow, et al. vs. City of Adelanto, et al.*, the Mojave Water Agency (MWA) was appointed as the Watermaster to monitor and verify water use, collect water assessments, conduct studies, prepare annual report of findings and activities, and record water transfers and changes of ownerships in groundwater rights within the Basin. The 1996 judgment established physical solutions to correct historical overdraft within the Basin to allow producers, including the GSWC, to pump as much groundwater as needed while simultaneously protecting the Basin. Within the 1996 judgment, a Base Annual Production (BAP) groundwater right of 14,407 acre feet per year (ac-ft/yr) was established for the GSWC based on historical production during the period of 1986 through 1990. The 1996 judgment also established a Free Production Allowance (FPA) for producers including the GSWC, which is a percentage of each producer's BAP within the Basin for each year. Any groundwater production above the FPA incurs a replenishment assessment which provides revenue to fund the importation of surface water supplies to replenish the Basin equivalent to the production in excess of the FPA. For the planning period of 2010 through 2035, GSWC's FPA is projected to be 80 percent of the BAP or 11,526 ac-ft/yr². The GSWC has a projected water demand through 2030 of 11,685 ac-ft/year, including an increase in commercial water use of approximately 1,000 ac-ft/yr compared to 2010 commercial water use rates. Accordingly, GSWC anticipates the need to offset 159 ac-ft/yr of production in 2030 in accordance with the 1996 judgment. Therefore, the average water demand of the Proposed Project of 225.6 ac-ft/yr would be incorporated into the Basin planning considerations and would not result in adverse impacts to the Basin or impair the implementation of the goals of the 1996 judgment to repair historical overdraft conditions in the Basin.

3.3 RESPONSES TO WRITTEN TRIBAL GOVERNMENT COMMENTS

COMMENT LETTER T1: LONE PINE PAIUTE-SHOSHONE RESERVATION

Response to Comment T1-1

Refer to **General Response 1** regarding comments that do not raise substantive environmental issues and **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action. The purpose of the EIS/TEIR is to evaluate potential environmental effects, not to assess which contemporary Native people maintain ancestral, historical or a modern connection to the proposed project location alternatives.

² Golden State Water Company, 2011. Final Report, 2010 Urban Water Management Plan – Barstow. Available online at: http://www.gswater.com/barstow/files/2012/12/Barstow_2010UWMP_000.pdf Accessed January 16, 2013.

COMMENT LETTER T2: LOS COYOTES BAND OF CAHUILLA AND CUPEÑO INDIANS

Response to Comment T2-1

The commenter's summary of the background and potential benefits of the Proposed Project is noted.

Response to Comment T2-2

This Final EIS/TEIR has been prepared according to the requirements of NEPA, which states that “the lead agency shall consider and respond to all substantive comments received on the Draft EIS/TEIR (*or summaries thereof where the response has been exceptionally voluminous*).” Therefore, all comments received by the BIA have been included within this Final EIS/TEIR, including all of those received during the public hearing on July 27, 2011 referred to by the commenter. Please see **Section 3.5**, below, for the responses to verbal comments provided during the public hearing.

Response to Comment T2-3

Comment noted. As described in **Response to Comment T2-2**, all comments received by the BIA have been included within this Final EIS/TEIR, including those by the Picayune Rancheria of Chuckchansi Indians and the Chemehuevi Indian Tribe. The BIA has responded to all comments received according to the requirements of NEPA. Please refer to **General Response 1**.

Response to Comment T2-4

The Tribe's information regarding the existing campground and Eagle Rock Training Center is noted.

Response to Comment T2-5

The commenter references page i in the EIS/TEIR and claims that the statement suggesting the Tribe's compact will “mandate the location within the Tribe's Reservation at which the Tribe may operate a Class III gaming facility...” is inaccurate. The commenter recommends that this statement be revised to state that the compact will specify the location at which the Tribe may operate a Class III gaming facility. This statement has been revised in the Final EIS/TEIR to reflect the commenter's recommendation.

Response to Comment T2-6

The text for Alternative A, under subheading “Federally Listed Species” of the Biological Resources section in the summary matrix in Section ES.5 of the EIS/TEIR, discussing potential impacts to the desert tortoise, has been clarified as suggested by the commenter.

Response to Comment T2-7

Comment noted. Table ES-1 of the Final EIS/TEIR has been revised to reference Section 13 of the MSA as mitigation for potential impacts associated property taxes under Alternatives A and B. Additionally, Section 4.13 of the Final EIS/TEIR has been revised to clarify that cumulative socioeconomic effects under Alternatives A and B would be reduced to less than significant with the implementation of mitigation measures.

Response to Comment T2-8

The commenter states that under the heading “Indirect Effects,” subheading “Cultural Resources” of Table ES-1, the phrase “would result in minimal indirect effects” should be deleted from the listed mitigation measure. This statement has been revised in the Final EIS/TEIR to reflect the commenter’s suggestion.

Response to Comment T2-9

The commenter recommends that the language in Section 1.1 be changed from “all gaming and development and management contracts” to say that “National Indian Gaming Commission (NIGC) reviews and approves all gaming management contracts.” The commenter also suggests that the language in Section 1.1.1 regarding the Tribe’s compact be revised to state that the “compact will specify the location at which the Tribe may operate a Class III gaming facility.” The language in both sections has been revised in the Final EIS/TEIR to reflect the commenter’s recommendations.

Response to Comment T2-10

The commenter claims that an inconsistency exists between Table 2-3 and the text in Section 2.2.2 regarding the number of service bars. The text within Section 2.2.2 has been corrected in the Final EIS/TEIR to show that there would be three service bars.

Response to Comment T2-11

Comment Noted. Section 3.6.1 of the Draft EIS/TEIR has been revised accordingly.

Response to Comment T2-12

The commenter states that it is unclear why the runoff rate would be greater for Alternative B than Alternative A, while less conveyance and detention capacity would be required for Alternative B compared to Alternative A. Section 4.2.1 of the Final EIS/TEIR has been clarified to explain that the runoff rate is higher for Alternative B because it requires more surface parking, which allows for fewer landscaped areas compared to Alternative A. Section 2 of the Final EIS/TEIR has been clarified to explain that Alternative B would require a slightly larger capacity for conveyance and storage due to higher run-off rates from the additional surface parking.

Response to Comment T2-13

The commenter notes that the EIS/TEIR should provide an explanation of why the analysis of Alternatives C and D does not include an evaluation of PM₁₀ emissions. PM₁₀ emissions from Alternatives C and D are quantified and presented in Appendix L of the Draft EIS/TEIR; however, because San Diego County is unclassified for PM₁₀, emissions are not of special concern. Section 3.3.1 and Section 4.8.1 of the Final EIS/TEIR have been clarified to state that PM₁₀ is not of special concern in the San Diego Air Basin.

Response to Comment T2-14

The commenter references Section 4.6.1 and recommends that the second sentence under the heading Operation include the word “patrons”. This sentence has been revised in the Final EIS/TEIR to reflect the commenter’s recommendation.

Response to Comment T2-15

The commenter questions the accuracy of the estimate that approximately 167 employees would be anticipated to relocate to San Bernardino County as a result of Alternative A and asks where the justification for this number can be located. Section 4.6 of the EIS/TEIR has been revised to clarify that it is not anticipated that a significant number of employees would relocate to the area to accept a position at the project site. Accordingly, the potential impact to Barstow schools would be less than that originally described in the Draft EIS/TEIR and would still be considered less than significant.

Response to Comment T2-16

The commenter requests that the comparison of potential substitution effects under Alternatives A and C be revised for clarity. The description of the substitution effect under Alternative C has been revised in the Final EIS/TEIR to clarify that the overall amount of the project’s revenue derived through substitution is significantly less under Alternative C than it is under Alternative A.

Response to Comment T2-17

The commenter references Section 4.6.4 regarding Alternative D, and requests that the sentence “...instead of a casino and hotel” be revised to eliminate mention of a hotel. This sentence has since been revised in the Final EIS/TEIR to reflect the commenter’s suggestion.

Response to Comment T2-18

Comment noted. The discussion of substitution effects resulting from Alternative D and references to Table 4.6-6 have been clarified and corrected within Section 4.6.4 of the Final EIS/TEIR.

Response to Comment T2-19

Comment noted. References to Section 7 of the Tribe’s MSA have since been added to these Section 4.9.1 and Section 4.9.2 of the Final EIS/TEIR regarding payments for upgrades sewer infrastructure. Additionally, Section 4.9.2 of the Final EIS/TEIR has since been revised to reference the Tribe’s commitment within the MSA to pay one half of the actual costs of training fire personnel if the hotel/casino structure exceeds four stories, and to dedicate or arrange for dedication of two acres of non-federal land near the project site for fire or police station use.

Response to Comment T2-20

Comment noted. Section 4.9.3 within the Final EIS/TEIR has since been revised.

Response to Comment T2-21

The commenter states that Section 4.13 does a thorough job analyzing the potential cumulative impacts that could result from implementation of the alternatives. The commenter also accurately defines cumulative impacts. Comments noted.

Response to Comment T2-22

Comment noted. The discussion of cumulative land use effects and cumulative effects association with fire protection services within Section 4.13.2 of the Final EIS/TEIR has since been revised to include additional references to the MSA.

Response to Comment T2-23

Comment noted. Refer to **Response to Comment A8-18** and revisions to the climate change analysis provided in Section 4.13 of the Final EIS/TEIR. The revised and updated analysis reflects that GHG emissions under Alternative B would be substantially reduced when compared to Alternative A.

Response to Comment T2-24

Comment noted. The discussion of cumulative land use effects within Section 4.13.3 of the Final EIS/TEIR has been revised to include additional references to the MSA. The commenter recommends that the discussion, under the “Land Use” heading in Section 4.13.3, mention the MSA and the Tribe’s commitment to develop tribal projects on the trust land in a manner that is consistent with the Barstow Municipal Code. The Land Use discussion in Section 4.13.3 has been revised to reflect the commenter’s recommendation.

Response to Comment T2-25

Comment noted. The terminology used within in Section 4.13.4 of the Final EIS/TEIR has been revised for consistency.

Response to Comment T2-26

Comment Noted. The Tribe subsequently provided information on the potentially cumulatively considerable actions within the Reservation. The cumulative effects analysis of Alternatives C and D, Sections 4.13.4 and 4.13.5 of the Final EIS/TEIR respectively, have been revised as appropriate to incorporate the information provided by the Tribe. All references to “Rancheria” have been corrected to state “Reservation.”

COMMENT LETTER T3: SAN MANUEL BAND OF MISSION INDIANS

Response to Comment T3-1

In response to this request, the commenter was emailed a copy of confidential Appendix N (Cultural Resource Appendix) on August 30, 2011.

COMMENT LETTER T4: SAN MANUEL BAND OF MISSION INDIANS

Response to Comment T4-1

The revision to the comments sent by the commenter on September 14, 2011 is noted. The revised letter is included as Comment Letter T4.

Response to Comment T4-2

Refer to **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action. Potential effects to biological and cultural resources are fully evaluated within Sections 4.4 and 4.5 of the EIS/TEIR. The EIS/TEIR has been prepared in accordance with NEPA, and fulfills NEPA's intent to provide for informed federal decision making.

Response to Comment T4-3

The purpose of the EIS/TEIR is not to assess which contemporary Native people maintain ancestral, historical or a modern connection to the project location alternatives. Refer to **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action. The purpose of the EIS/TEIR, consistent with NEPA, is to evaluate the existing cultural and historic setting of the project and the potential impacts on historic and cultural resources as a result of the project. These are fully discussed in Sections 3.5 and 4.5 of the EIS/TEIR based on a thorough review and analysis of relevant source materials. A revised discussion of the ethnographic section is included in Section 3.5 of the Final EIS/TEIR.

Response to Comment T4-4

In response to the claim that the EIS/TEIR utilizes ethnographic information that is out of date and therefore, should not be considered 'complete': "Cultural Setting" is detailed in Section 3.5 of the EIS/TEIR. Within this section prehistory, ethnography and historic background sections are presented. This cultural setting information is intended only to establish a context for interpreting extant historical/prehistoric resources that could be subject to impacts from the development of the proposed project alternatives, and therefore was described based on readily available, standard reference materials. Section 3.5 is not intended to serve as a definitive treatise on Native American occupation of the proposed project locations or their respective vicinities; however it provides a sufficiently detailed description of Native American occupation of the proposed project locations which is based on peer reviewed primary reference materials that are generally accepted in the field. A revised discussion of the ethnographic section is included in Section 3.5 of the Final EIS/TEIR.

In response to the identification of previously unidentified archaeological resources: previously recorded archaeological resources located within ½ mile of the proposed project area alternatives are identified and described in confidential Appendix N. These data were acquired from a records search and literature review conducted at the San Bernardino Archaeological Information Center (SBIC). These data are collected in order to (1) determine whether known cultural resources had been recorded within or adjacent to the study area; (2) determine whether known resources have been reported in archaeological, ethnographic, and historical documents and literature; and (3) assess the likelihood of unrecorded cultural

resources based on the distribution of nearby archaeological sites in relation to their environmental setting. As described in Appendix N, the result of this research yielded among other datasets, the location of one previously recorded archaeological resource within ½ mile of the Barstow site. It is beyond the scope of the EIS/TEIR to examine previously recorded archaeological resources that are beyond ½ mile from the proposed project alternatives.

The previously documented archaeological resources which the commenter describes (i.e. Newberry Cave, Elephant Mountain and The Sidewinder Archaeological Quarry District) are within the Barstow area but are beyond the Barstow Site project vicinity and area of potential effects of the proposed project. As such, these resources are not addressed in the EIS/TEIR.

Response to Comment T4-5

Comment noted. Additional discussion of potential cumulative effects to Mohave Desert tortoise has been provided in Section 4.13 of the Final EIS/TEIR.

Response to Comment T4-6

Please refer to **General Response 1** and **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action.

COMMENT LETTER T5: PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS

Response to Comment T5-1

The scope of the commenter's review is noted.

Response to Comment T5-2

The issues of whether the Tribe has historical ties to the Proposed Project location, is entitled to assert governmental jurisdiction over the Proposed Project location, or will violate the spirit and intent of IGRA by gaming on the Proposed Project location are beyond the scope of the EIS/TEIR, which is intended to analyze environmental impacts resulting from implementation of the proposed alternatives. Refer to **General Response 1** regarding comments that do not raise a substantive environmental issue and **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action.

As stated in the Purpose and Need section of the EIS/TEIR (Section 1.2), the purpose of the Proposed Action is to help provide for the economic development of the Tribe and stability and self-sufficiency of the tribal government, resulting in economic, social, and other benefits for the Tribe and its members. As described in Section 3.6.3 of the EIS/TEIR, of the 328 Los Coyotes tribal members, approximately 82 live on the Reservation. The majority of the remaining tribal members live in Southern California in San Diego, Riverside, and San Bernardino counties. The casino would employ tribal members, however, it is not expected that a substantial number would relocate to Barstow as many members already live within a commutable distance. In addition, the revenue generated by the Proposed Project would allow the Tribe to fund a variety of social, housing, governmental, administrative, educational, health and welfare

services to improve the quality of life of tribal members; and provide capital for other economic development and investment opportunities all of which would provide job opportunities for tribal members both on and off the Reservation. Therefore, the negative impacts to tribal members moving from the Reservation to pursue employment with the project predicted by the commenter are not expected to occur.

Regarding the claim that the approval of the proposed action would lead to other tribes seeking to develop gaming developments closer to favorable gaming environments and “leap-frogging” over historical tribal boundaries, NEPA requires the analysis of reasonably foreseeable effects. It does not require the consideration of remote, speculative, or worst case effects. The decision to take the Barstow parcel in trust and to allow gaming on it is governed by federal statutes and regulations, and concerns raised by the commenter about policy implications or legal precedent created by that decision are speculative. Similarly, the commenters claim that approval of the Proposed Action will contravene BIA’s mandate to approve and strengthen tribal governments and improve the quality of life for all Native Americans is a legal issue that is beyond the scope of the EIS/TEIR. Refer to **General Response 1** regarding comments that do not raise substantive environmental issues and **General Response 2** regarding what will be considered by the BIA in its decision on the Proposed Action.

Finally, the commenter claims that allowing the Tribe to proceed with the Proposed Project would result in detriment to existing tribal economic development. NEPA requires an analysis of socioeconomic impacts affecting the environment, and the potential impacts to nearby tribal gaming facilities and to Barstow and the surrounding area are fully analyzed in Section 4.6 of the EIS/TEIR. The analysis does not show any significant detrimental impacts; in fact the overall socioeconomic impacts are beneficial. While IGRA requires the Secretary, in making a Secretarial determination under 25 U.S.C. § 2719(b)(1)(A), to consider the economic impacts of proposed gaming facilities on surrounding communities, nothing in IGRA recognizes a right of nearby tribes to be free from economic competition. See **General Response 3** for a discussion of factors considered by the BIA in its decision on the Proposed Action.

Response to Comment T5-3

The Draft EIS/TEIR review and comment period were conducted consistent with federal regulations and the BIA’s NEPA Handbook (59 IAM 3). The Notice of Availability (NOA) of the Draft EIS/TEIR for the Proposed Project was published by the USEPA in the Federal Register on July 1, 2011. The Draft EIS/TEIR was made available for a 75-day comment period that concluded on September 14, 2011. Separate consultations with Indian tribes will occur in accordance with Section 106 of the National Historic Preservation Act (NHPA) and the two-part determination process under 25 U.S.C. §2719.

Response to Comment T5-4

The commenter does not specify in what way the project description is inadequate. Please refer to **General Response 1**. A complete discussion of the potential for growth-inducing effects was included in Section 4.14.2 of the EIS/TEIR.

Response to Comment T5-5

Refer to **General Response 1** regarding comments that do not raise a substantive environmental issue and **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action.

It is unclear from this comment how any tribal trust assets actively managed by the BIA are endangered or threatened by any decision by the Secretary to take land into trust on behalf of the Los Coyotes Tribe. Refer to **Response to Comment T5-2** for a discussion of the purpose and need for the Proposed Action and the BIA's trust responsibility.

3.4 RESPONSE TO WRITTEN INDIVIDUAL COMMENTS

COMMENT LETTER I1: SHIRLEY GRIEGO

Response to Comment I1-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I2: PAUL AND ELIZABETH AVILES

Response to Comment I2-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I3: CARMEN HERNANDEZ

Response to Comment I3-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I4: CONRADO CASTRO

Response to Comment I4-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I5: ROBERT L. MCGINNIS

Response to Comment I5-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I6: BEVERLY ROJAS

Response to Comment I6-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I7: MARIE PETTIT

Response to Comment I7-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I8: REGINALD DILLINGHAM

Response to Comment I8-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I9: FRED STEARN

Response to Comment I9-1

A hard copy of the Draft EIS/TEIR was available for review at The San Bernardino County Public Library – Barstow Branch and the San Diego County Public Library. An electronic copy of the Draft EIS/TEIR was available at <http://www.loscoyoteseis.com> and compact disks of the Draft EIS/TEIR were available free of charge, upon request. However, as stated in the Notice of Availability for the Draft EIS/TEIR, dated July 1, 2011, individual paper copies of the Draft EIS/TEIR would be provided upon payment of applicable printing expenses by the requestor for the number of copies requested. The commenter was contacted and elected not to receive a hardcopy of the document.

COMMENT LETTER I10: PATRICIA J. MOSER MORRIS

Response to Comment I10-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the Tribe is reflected in Section 1.2 of the EIS/TEIR.

COMMENT LETTER I11: LAURA MORACO

Response to Comment I11-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR. The commenter's statements regarding traffic, noise, public utilities, and biological resources are reflected in Sections 4.7, 4.10, 4.9, and 4.4 of the EIS/TEIR, respectively.

COMMENT LETTER I12: DR. MICHAEL BURTON M.D.

Response to Comment I12-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The amount of jobs estimated for each of the alternatives is provided in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I13: BRENDA BURTON

Response to Comment I13-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I14: HENRY ROBERTS

Response to Comment I14-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I15: DANIEL JENKINS

Response to Comment I15-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR. An analysis of potential effects on law enforcement and traffic is included in Sections 4.9 and 4.7. As described therein, in accordance with the Tribe's MSA the Tribe would make payments to the City to cover the costs of impacts associated with increased police services.

COMMENT LETTER I16: PATRICIA RAMIREZ

Response to Comment I16-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I17: TONY TITOLO

Response to Comment I17-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**, regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER I18: ROBERT L. BERKMAN

Response to Comment I18-1

A hard copy of the Draft EIS/TEIR was available for review at The San Bernardino County Public Library – Barstow Branch and the San Diego County Public Library. An electronic copy of the Draft EIS/TEIR was available at <http://www.loscoyoteseis.com> and compact disks of the Draft EIS/TEIR were available free of charge upon request. However, as stated in the Notice of Availability for the Draft EIS/TEIR, dated July 1, 2011, individual paper copies of the Draft EIS/TEIR would be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

COMMENT LETTER I19: TED STIMPFEL

Response to Comment I19-1

At the commenter's request, the commenter was added to the distribution list.

COMMENT LETTER I20: R.A. RASMUSSEN

Response to Comment I20-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I21: DANNY R. SANCHEZ

Response to Comment I21-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I22: LARRY P. SANCHEZ

Response to Comment I22-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I23: VIOLA BASETTE

Response to Comment I23-1

The commenter suggested several ideas for preservation and educational programs that could be implemented at the project site. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER I24: MARIO CASTELLANO

Response to Comment I24-1

The commenter expressed opposition to Alternatives C and D which would be developed on the Tribe's Reservation. Impacts resulting from development of Alternatives C and D, including impacts to natural and biological resources, are evaluated in Section 4.0 of the EIS/TEIR. The commenter also expressed support for development of the Proposed Project in the City of Barstow. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

Response to Comment I24-2

Comment noted. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and to the Tribe is reflected in Section 4.6 of the EIS/TEIR. The ethnographic setting is described in Section 3.5.1 of the EIS/TEIR.

COMMENT LETTER I25: ANNETTE MARTINEZ

Response to Comment I25-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I26: EVELYN WILETTTS

Response to Comment I26-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I27: BRENNAN BAYNARD-SMITH

Response to Comment I27-1

The commenter states that an increase in gambling will result in an increase in gangs, drugs, addiction, prostitution, and crime. Potential effects to socioeconomic conditions, including crime, are discussed in Section 4.6 of the EIS/TEIR. Refer to **Response to Comment A8-4** for additional information regarding potential impacts to crime.

COMMENT LETTER I28: PONCIANO CASTELLANO

Response to Comment I28-1

The commenter expressed support for the Proposed Project and opposition to development of the Tribe's Reservation. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the Tribe is reflected in Section 1.2 of the EIS/TEIR.

COMMENT LETTER I29: ROBERT YAZZIL

Response to Comment I29-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I30: BERNARD BESSEY

Response to Comment I30-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER I31: HARVEY J. WALKER

Response to Comment I31-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**.

Response to Comment I31-2

The commenter did not specify which portions of the EIS/TEIR are dated and in need of correction; therefore, no changes have been made in response to this comment. However, the EIS/TEIR has been updated and corrected as necessary to respond to other comments received. Please refer to the Final EIS/TEIR

Response to Comment I31-3

Access and egress to the project site is analyzed in Section 4.7 of the EIS/TEIR. The access and egress intersection at Lenwood Road and the project entrance would operate at an acceptable level of service with the implementation of mitigation under all alternatives. The proposed Caltrans interchange is not an approved or funded improvement and therefore, was not included in the traffic analysis. Refer to **Response to Comment A5-1 and A5-2** for additional information regarding the access and egress intersection at Lenwood Road.

Response to Comment I31-4

Existing public services and utilities are described in Section 3.9 of the EIS/TEIR. Effects to public services that would result from the development of Alternatives A and B are discussed in Section 4.9 of the EIS/TEIR. Indirect effects from the development of off-site infrastructure improvements are discussed in Section 4.14.1 of the EIS/TEIR. Please refer to these sections for a complete discussion of the expansion of public services to accommodate Alternatives A and B.

Response to Comment I31-5

The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I32: JOSEPH AND MARIE ASPREC

Response to Comment I32-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I33: RAYLE J. GRIEGO

Response to Comment I33-1

The commenter expressed support for the Proposed Project; however the commenter believes that the name of the casino should reflect the Native Americans it is helping. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I34: ERNESTO SALAS

Response to Comment I34-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I35: MARILYN SALAS

Response to Comment I35-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I36: NANCY DITTMAN

Response to Comment I36-1

The commenter's concern that the Proposed Project could potentially affect the water supply service to existing customers is addressed in Section 4.9 of the EIS/TEIR. As described therein, the Golden State Water Company (GSWC) has adequate supply and service can be provided to Alternatives A and B without affecting existing customers. Furthermore, Air Quality Mitigation Measure 32 (see Section 5.3 of the EIS/TEIR) requires that the Tribe use low-flow appliances where feasible, utilize non-potable water to the extent practicable, use drought resistant landscaping where practicable, and provide "Save Water" signs near water faucets throughout the development in compliance with Executive Order S-3-05/ AB 32 Greenhouse Gas Reduction Strategies.

COMMENT LETTER I37: ELIZABETH PISTONE

Response to Comment I37-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I38: HERMINIA M. JAMES

Response to Comment I38-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I39: SEAN ROACH

Response to Comment I39-1

The commenter's support of Alternatives A and B is noted. As discussed in Section 2.5 of the Final EIS/TEIR the BIA's Preferred Alternative is identified as Alternative B.

Leases for Indian lands are generally subject to BIA review and approval under 25 CFR Part 162. The existing lease agreement referred to by the commenter has not been reviewed or approved by the BIA and is currently the subject of litigation. In February 2012 the Tribe obtained a judgment for eviction which requires ERTC to vacate the reservation; a federal lawsuit on the same issue is still pending. For that reason, at this time it is not clear whether the activities currently authorized under the lease would interfere with the construction of Alternative C or D at some point in the future. Should the judgment against ERTC remain in place, ERTC's activities under the lease clearly would cease and would not interfere with any on-reservation alternatives. However, in the event that the judgment would be reversed and ERTC would be allowed to remain on the reservation and Alternative C or D would be selected for development (which seems unlikely given that the BIA has selected Alternative B as the preferred Alternative – refer to Section 2.5 of the Final EIS/TEIR), the selected alternative could be implemented in a manner that would not conflict with the continuation of ERTC's operations under the existing lease terms. Therefore, contrary to the commenter's concerns, the possible construction and operation of Alternative C or D would not infringe on ERTC's operations on the Reservation, should there be any in the future. Because Alternatives C and D would not affect ERTC's ability to conduct training operations on the Reservation, the impacts to the Tribe's economy, unemployment, or law enforcement services suggested by the commenter would not be expected to occur.

COMMENT LETTER I40: CHERYL SCHMIT

Response to Comment I40-1

Comment noted. Once the comment period for the Draft EIS/TEIR has ended any additional comments will be accepted and entered into the administrative record; however, the lead agency is not required to respond to late comments within the Final EIS/TEIR.

Response to Comment I40-2

The purpose and need for the Proposed Action is clearly stated within Section 1.2 of the EIS/TEIR. The Tribe is in need of a reliable, *significant* revenue source that would be used to strengthen the tribal government; fund a variety of social, housing, governmental, administrative, educational, health and welfare services to improve the quality of life of tribal members; provide capital for other economic development and investment opportunities; etc (emphasis added). Although the Tribe does receive funds from the Revenue Sharing Trust Fund, these funds are not substantial enough to fund the infrastructure and services needed by the Tribe. Furthermore, these funds, by definition, do not establish economic self-sufficiency nor achieve tribal self-determination. Please refer to **General Response 2**.

The January 4, 2008 denial letter referenced by the commenter was issued based on the Department of the Interior's "Guidance on taking off-reservation land into trust for gaming purposes" (Guidance) issued on January 3, 2008, prior to the Department's promulgation of the 25 C.F.R Part 292 regulations. This Guidance was withdrawn in a memorandum issued June 13, 2011 regarding the "Guidance for Processing Applications to Acquire Land in Trust for Gaming Purposes." The June 2011 memorandum goes on to state that "IGRA and the Department's regulations, at 25 C.F.R Parts 151 and 292 adequately account for the legal requirements and policy considerations that must be addressed prior to approving fee-to-trust applications, including those made pursuant to the 'off-reservation' exception." Although the January 4, 2008 denial letter does state that the "IRA has nothing to do *directly* with Indian gaming (emphasis added)", the letter goes on to state that "whether off-reservation land should be taken into trust for gaming purposes is a decision that must be made pursuant to the Secretary's IRA authority." Therefore, the referenced text is valid. Section 2719 of IGRA is an amendment to the statute intended to further the purpose and need for the regulations. References to IGRA within the text are accurate.

Response to Comment I40-3

As stated in the Purpose and Need section of the EIS/TEIR (Section 1.2), the purpose of the Proposed Action is to help provide for the economic development of the Tribe and stability and self-sufficiency of the tribal government, resulting in economic, social, and other benefits for the Tribe. Refer to **Response to Comment T5-2** for additional information regarding economic, social and other benefits to the Tribe.

Response to Comment I40-4

The Tribe has revised and resubmitted its fee-to-trust application in response to the 2008 letter of denial referenced by the commenter.

Response to Comment I40-5

As described in Section 2.3 of the EIS/TEIR, the development of the Barstow site with commercial uses was considered but eliminated from further consideration as it would not be economically viable and would fail to meet the stated purpose and need of the Proposed Action. Refer to **General Response 1** regarding comments that do not raise a substantive environmental issue and **General Response 3** for a

discussion of factors that will be considered by the BIA in its decision on the Proposed Action. Please refer to **Response to Comment I39-1** regarding the ERTC.

As stated in Section 2.2.3 and 2.2.4 the Tribe has not entered into a MSA for Alternative C and D, but would be willing to provide appropriate compensation to San Diego County for services provided to the Reservation. As stated in Section 2.5 of the Final EIS/TEIR, the BIA has chosen Alternative B as the Preferred Alternative; therefore, a MSA with San Diego County is not warranted at this time.

As described in Section 2.0, the EIS/TEIR presents a reasonable range of alternatives, which were selected based on consideration of the purpose and need, the recommendations of commenters during the scoping process, and opportunities for potentially reducing environmental effects. According to the most recent Wind Performance Summary Report issued by the California Department of Energy³, the Los Coyotes Reservation is not located with a region which would support electricity production by wind powered generators. The project site does not provide a suitable location for solar energy production because of the topography of the Los Coyotes Reservation (steep canyons), the forested project site (removal of a large number of trees would cause climate change and biological habitat impacts), and the remote nature of the project site (transmitting electricity a long distance causes significant loss of electricity). Because of these factors wind and solar energy production on the Los Coyotes site, as suggested by the commenter, would not meet the needs of the Tribe.

Response to Comment I40-6

Refer to **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action. The commenter does not specify how the Preferred Alternative is detrimental to public policy and the good operation of State and local governments. Please refer to Section 4.8 of the EIS/TEIR for a discussion of potential affects regarding land use and local and regional planning efforts. Note that the two-part consultation process is conducted separately and is outside of the scope of NEPA.

Response to Comment I40-7

Please refer to **General Response 1**. The environmental effects of the MSA are considered in accordance with NEPA within the EIS/TEIR.

Response to Comment I40-8

Please refer to **General Response 1**.

Response to Comment I40-9

Please refer to **General Response 1 and General Response 3**.

³ California Department of Energy, 2001. Wind Performance Report Summary 2000-2001. Available online at: http://www.energy.ca.gov/wind/documents/2001_reports.html. Viewed on November 10, 2011.

Response to Comment I40-10

Please refer to **General Response 1** and **General Response 3**.

Response to Comment I40-11

Please refer to **General Response 1** and **General Response 3**.

Response to Comment I40-12

The Commenter cites a news article that summarizes potential impacts to the future marketability of a Barstow casino as a result of potential development of a proposed high-speed train (Desert X-press) that would link Victorville to Las Vegas. The commenter suggests that a supplemental EIS/TEIR be prepared to discuss potential impacts to the marketability of the casino. An evaluation of marketability of the Proposed Project is not a requirement under NEPA. As such, no further analysis is warranted. However, it is important to note that even if the Desert X-press train is developed and results in reduced patronage to the project site, the Proposed Project would still result in a positive impact to the local economy greater than what would occur without development of the Project. The increased economic activity resulting from the Proposed Project would result in employment and wages for persons previously unemployed, increasing the ability of the population to provide themselves with health and safety services and contributing to the alleviation of poverty among lower income households. This would be a beneficial effect.

Response to Comment I40-13

Please refer to **General Response 1**. Socioeconomic impacts are addressed in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I41: JO MEUGNIOT

Response to Comment I41-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I-42: WILL MEUGNIOT

Response to Comment I42-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I43: GARY AND CAROLINE HALEY

Response to Comment I43-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I44: ALICIA ESPINOZA

Response to Comment I44-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR. The commenter's concerns regarding crime are addressed in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I45: BEDDY BURTON

Response to Comment I45-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the Tribe is reflected in Section 1.2 of the EIS/TEIR.

COMMENT LETTER I-46: DR. SHELDON NEWCRON

Response to Comment I46-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER I47: EVELYN BURTON-VUCETICH

Response to Comment I47-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER I48: DARRELL JAUSS

Response to Comment I48-1

The commenter's statement that the Proposed Project would increase fire protection levels is reflected in Section 4.9 of the EIS/TIER.

COMMENT LETTER I49: TED BACA

Response to Comment I49-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

3.5 RESPONSE TO PUBLIC HEARING COMMENTS

COMMENT LETTER PH1: SHANE CHAPEROSA

Response to Comment PH1-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the Tribe is reflected in Section 1.2 of the EIS/TEIR.

COMMENT LETTER PH2: JOE GOMEZ

Response to Comment PH2-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH3: JULIE MCINTYRE

Response to Comment PH3-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR. The commenter's statement regarding the MSA is reflected in Section 4.8 and Appendix D of the EIS/TEIR.

COMMENT LETTER PH4: TIM SILVA

Response to Comment PH4-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH5: TIM SAENZ

Response to Comment PH5-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter’s statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH6: WILLIE HAILEY

Response to Comment PH6-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter’s statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH7: MORRIS REID

Response to Comment PH7-1

Refer to **General Response 3**. The issue as to whether or not the Los Coyotes Tribe has ancestral ties to the project site is beyond the scope of the NEPA process. The EIS/TEIR is intended to analyze physical environmental effects resulting from the Proposed Action and implementation of the project alternatives. Refer to **Response to Comment PH21-2** regarding the management contract with BarWest.

Response to Comment PH7-2

Refer to **General Response 3**. Refer to **Response to Comment T5-2** for additional information regarding economic, social and other benefits to the Tribe.

COMMENT LETTER PH8: DORA JONES

Response to Comment PH8-1

Refer to **General Response 3**.

COMMENT LETTER PH9: DAVID GROSSMAN

Response to Comment PH9-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter’s statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR

COMMENT LETTER PH10: JOSE GUZMAN

Response to Comment PH10-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH11: JOSEPH BRADY

Response to Comment PH11-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH12: DAVID SOLANO

Response to Comment PH12-1

The commenter expressed support for the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR. Chapter 4.0 of the EIS/TEIR contains an analysis of the Proposed Project and its alternatives. Mitigation was provided in Chapter 5.0 for potential adverse effects identified in Chapter 4.0.

COMMENT LETTER PH13: RUBEN GUEDONDO

Response to Comment PH13-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH14: HARVEY WALKER

Response to Comment PH14-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

Response to Comment PH14-2

Comment noted. Refer to **Response to Comment I31-3** regarding project access and egress and the proposed interchange.

Response to Comment PH14-3

The necessary utility upgrades to support the project alternatives are described in Chapter 2.0 of the EIS/TEIR and associated environmental impacts are presented in Section 4.14 of the EIS/TEIR as indirect effects of the project alternatives. Any other utility upgrades within the project region are not associated with the project alternatives and, therefore, are not evaluated as an indirect effect in the EIS/TEIR.

Response to Comment PH14-4

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH15: CHARLES WOOD

Response to Comment PH15-1

Refer to **General Response 3** regarding compliance with IGRA and laws pertaining to off-reservation gaming. Refer to **Response to Comment PH21-2** regarding the management contract with BarWest.

Response to Comment PH15-2

Refer to **General Response 3**.

COMMENT LETTER PH16: MARIANO RIOS

Response to Comment PH16-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH17: JEANNE WIST

Response to Comment PH17-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH18: BETTE MOSES

Response to Comment PH18-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR

COMMENT LETTER PH19: MARIANNE TREESE

Response to Comment PH19-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH20: SEAN FOWLER

Response to Comment PH20-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR

COMMENT LETTER PH21: BOB CONAWAY

Response to Comment PH21-1

The commenter states that the gaming industry diminishes the local economy. The commenter also states that the project would take as much as 15 to 20 percent of local revenue away from local businesses. As discussed in Section 4.6 of the EIS/TEIR, the Proposed Project is anticipated to result in significantly positive impacts to the local economy, including generating substantial employment opportunities that would result in employment and wages for persons previously unemployed, increasing the ability of the population to provide themselves with health and safety services and contributing to the alleviation of poverty among lower income households. Additionally, as discussed in Section 4.6 of the EIS/TEIR, because the casino would draw non-residents to the area, the associated increase in new visitor demand for off-site entertainment venues, restaurants, and bars would make up for some area residents choosing to visit the Proposed Project rather than other local establishments. Thus, it is not anticipated that significant substitution effects to local businesses would occur.

Response to Comment PH21-2

As described in Section 2.2.1 of the EIS/TEIR, as part of its regulatory function, the NIGC, which was established under IGRA, is charged with the authority to approve management contracts between tribal governments and outside management groups. To approve a management contract, the NIGC must determine that the contract is consistent with IGRA in terms of contract period, management company

payment, and protection of tribal authority. In addition, once the project is operational, the management company must comply with the terms of IGRA and NIGC's regulatory requirements relating to the operation of the Indian gaming facilities. IGRA seeks to provide tribal economic development and self sufficiency while ensuring that the custodial tribe is the primary beneficiary of gaming revenues and that these operations are fair for the operator and the players.

Please refer to **Response to Comment PH21-1** regarding the Proposed Projects effect on the local economy.

Response to Comment PH21-3

Refer to **Response to Comment A8-4** regarding potential impacts to crime. Potential impacts to public services under the Proposed Project, including emergency medical response, have been fully discussed in Section 4.9 of the EIS/TEIR. As stated in Section 4.9, the Proposed Project would increase the number of visitors in the area, which would result in the need for increased emergency medical services. The nearest emergency room is located at the Barstow Community Hospital at 555 South 7th Avenue in Barstow. Emergency medical services including ambulance transport and emergency room care are provided by private businesses and usually paid for by the person requiring emergency medical care. With implementation of the conditions of the MSA, as discussed in Section 5.9 of the EIS/TEIR, development of the Proposed Project would not result in significant adverse effects on fire protection and emergency medical services.

Response to Comment PH21-4

Alternatives C and D, as described in Section 2.0 of the EIS/TEIR, were proposed to be developed within the Tribe's reservation and were thoroughly analyzed within Section 4.0. Please refer to **General Response 2**. As described in Section 1.2 of the EIS/TEIR, the Tribe's existing reservation lands are remote, composed almost entirely of steep, rugged terrain, environmentally sensitive, and difficult to access, being surrounded by various state and federal forest, park and public domain lands. Further, as stated in **Response to Comment T2-4**, the Tribe's existing campground has not met expectations. The retreat and recreation area suggested by the commenter is similar to the campground proposed under Alternative D and the suggested resort is similar to the casino-hotel proposed under Alternative C.

COMMENT LETTER PH22: PASTOR CLARENCE LUCKEY

Response to Comment PH22-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH23: CHERYL WACHEL

Response to Comment PH23-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH24: GLORIAL HENTRELL

Response to Comment PH24-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR

COMMENT LETTER PH25: JOE ALBERTA

Response to Comment PH25-1

The commenter expressed support of Alternative C. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the Tribe is reflected in Section 1.2 of the EIS/TEIR. Compliance with IGRA is discussed in Section 1.1 and Chapter 2.0 of the EIS/TEIR.

Response to Comment PH25-2

The commenter inquires who will take care of the sewers, air quality control, children, and water. Sections 3.9 and 4.9 of the EIS/TEIR analyze the projects effects on the sewer system in the Barstow and San Diego areas. The Tribe would access the Barstow wastewater system if Alternatives A or B is selected. As shown in Section 4.9 of the Draft EIS/TEIR there is adequate capacity in Barstow's wastewater system to process the proposed project's wastewater. Alternatives C and D would construct wastewater treatment facilities to accommodate the projects needs. Air quality is under the jurisdiction of the EPA once the proposed project is taken into trust. As shown in Sections 4.3 and 4.13 of the EIS/TEIR project-related air pollution would be less than significant. Alternatives A and B's potable water would be supplied by Golden State Water Company and water would be supplied to Alternatives C and D by new wells. Water demand for the proposed project is analyzed in Section 4.9 of the EIS/TEIR and it was determined that the proposed project would not exceed the available water capacity at the Barstow or San Diego sites. Section 4.6 of the EIS/TEIR includes an analysis of the socioeconomic effects including the effects of pathological and problem gambling.

Response to Comment PH25-3

Please refer to Section 4.6 of the EIS/TEIR which includes a discussion of the socioeconomic effects of the project, including potential impacts to other tribal gaming facilities.

Response to Comment PH25-4

The commenter asks what the road impacts are and state that if this project is approved it will open the door for other Tribes to move their casinos. An analysis of traffic impacts is provided in the Draft EIS/TEIR in Sections 3.7, 4.7 and 4.13. With mitigation, all intersections, roadways, and freeway segments would operate at an acceptable level of service. The BIA will continue to evaluate requests for off-reservation gaming related fee-to-trust acquisitions based on the merits of each individual application and in accordance with IGRA and other applicable laws. The BIA has already approved several such applications, and therefore, approval of either Alternative A or B would not set a new precedent for the Department.

Response to Comment PH25-5

Section 4.6 of the EIS/TEIR includes a discussion of the socioeconomic effects of the project including non-gaming competitive effects. Please refer to **Response to Comment PH21-1** regarding the potential for the proposed casino to affect the local economy.

Response to Comment PH25-6

Section 4.6 of the EIS/TEIR includes a discussion of the socioeconomic effects of the project, including a discussion of the loss of state and federal tax revenues and non-gaming competitive effects. Please refer to **Response to Comment PH21-1** regarding the potential for the proposed casino to affect the local economy.

COMMENT LETTER PH26: JEFF EASON

Response to Comment PH26-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH27: PATRICIA RAMIREZ

Response to Comment PH27-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH28: CURT MITCHELL

Response to Comment PH28-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow

and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH29: MARCELLA ESPINOZA

Response to Comment PH29-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH30: DAVID CARR

Response to Comment PH30-1

Refer to **Response to Comment T5-2** for additional information regarding economic, social and other benefits to the Tribe.

Response to Comment PH30-2

Please refer to **General Response 2**. Refer to **Response to Comment I40-5** regarding the alternatives included in the EIS/TEIR and the feasibility of solar and wind developments on the reservation. The expansion of the existing campground suggested by the commenter is similar to the campground proposed under Alternative D.

Response to Comment PH30-3

Refer to **General Response 2** regarding the purpose and need for the Proposed Action. The EIS/TEIR analyzes alternatives that include a fee-to-trust component (Alternatives A, and B) as well as two that do not (Alternatives C and D), as well as the No Action Alternative. These alternatives evaluate the development of the Barstow site as well as the Los Coyotes site.

Response to Comment PH30-4

Section 4.6 of the EIS/TEIR includes a discussion of the socioeconomic effects of the proposed alternatives, including an analysis of crime and local economics.

COMMENT LETTER PH31: DR. MICHAEL BURTON

Response to Comment PH31-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH32: TED WEASMA

Response to Comment PH32-1

The commenter states that the intersection at Interstate 15 and Lenwood Road is backed up every weekend and that project traffic would have to use Outlet Center Drive, which would not be sufficient to accommodate project-related traffic. Refer to **Response to Comment A11-1**.

Response to Comment PH32-2

The commenter states that the proposed project would result in a lot of air pollution associated with slow moving vehicles and the Barstow area is the number one diesel pollution spot in California. Sections 4.3 and 4.13 of the Draft EIS/TEIR provide extensive analysis of project-related regional and cumulative air quality impacts. As shown in Sections 4.3 and 4.13, project emissions would not exceed the applicable federal conformity thresholds with the implementation of mitigation. Diesel particulate matter emissions are included in the URBEMIS model as PM₁₀ and PM_{2.5}. URBEMIS output files are provided in Appendix L of the Draft EIS/TEIR. The proposed project is not a major source emitter of diesel particulate matter; therefore, no further analysis was completed.

Response to Comment PH32-3

The California Gambling Control Commission's Revenue Sharing Trust Fund (RSTF), referred to by the commenter, does exist and distributes funds to eligible Indian tribes, including the Tribe. The scope of the EIS/TEIR is to assess the environmental impacts of proposed Federal actions intended to improve the long-term economic vitality and self-governance of the Tribe. Projects proposed by other Indian tribes are not within the scope of this analysis.

Response to Comment PH32-4

Section 4.6 of the EIS/TEIR includes a discussion of the socioeconomic effects of the proposed alternatives, including an analysis of employment opportunities. Section 10 of the MSA between the City of Barstow and the Tribe states that the Tribe shall work in good faith with the City to employ qualified City residents at the Tribe's Resort facilities and that the Tribe shall offer training programs to assist City residents in becoming qualified for positions at the Resort to the extent permitted by applicable law.

COMMENT LETTER PH33: RICARDO ARREDONDO

Response to Comment PH33-1

Section 4.6 of the EIS/TEIR includes a discussion of the socioeconomic effects of Alternatives A and B, including impacts to the local economy.

Response to Comment PH33-2

Refer to **General Response 1** regarding comments that do not raise a substantive environmental issue and **General Response 3** for a discussion of factors that will be considered by the BIA in its decision on the Proposed Action.

COMMENT LETTER PH34: MYRON BENALLY

Response to Comment PH34-1

As discussed in Section 1.3.1 of the EIS/TEIR, in September 2006, the BIA published a Scoping Report, which summarized the comments received during the scoping period and outlined the expected scope of the EIS/TEIR. To the extent required by NEPA, this EIS/TEIR has incorporated the issues and concerns identified within the Scoping Report.

Response to Comment PH34-2

As discussed in Section 4.6 of the EIS/TEIR, the Proposed Project is not anticipated to result in significant impacts to problem or pathological gambling. The use of welfare funds at the establishment would be restricted by the government agencies issuing the funds. The Tribe will abide by all applicable federal restrictions regarding the use of government-issued welfare and other financial aid onsite. No further mitigation measures are warranted.

Response to Comment PH34-3

The commenter expressed support of the Proposed Project. Please refer to **General Response 1**.

COMMENT LETTER PH35: NOKOMIS HERNANDEZ

Response to Comment PH35-1

Refer to **General Response 1** regarding issues beyond the scope of the NEPA process. Refer to **General Response 3** regarding compliance with IGRA and laws pertaining to off-reservation gaming. Refer to **Response to Comment PH21-2** regarding the management contract with BarWest.

COMMENT LETTER PH36: DENNIS MALLOY

Response to Comment PH36-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH37: TINA JOHNSON

Response to Comment PH37-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH38: JENNIFER RODRIGUEZ

Response to Comment PH38-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter’s statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH39: LAURENCE DALE

Response to Comment PH39-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter’s statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH40: MINDY MOJADA-STONEBURNER

Response to Comment PH40-1

The commenter expressed support of the Proposed Project and explained the Tribe’s need for economic stimulus to improve school systems and facilities. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH41: RICH HARPOLE

Response to Comment PH41-1

The commenter expressed his opinion that with the provisions of the MSA, crime would not be an issue with respect to a casino in the Barstow community and his support of the Proposed Project. Please refer to Section 4.6 for a discussion of potential effects associated with crime and Section 4.9 of the EIS/TEIR regarding law enforcement services.

Response to Comment PH41-2

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter’s statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR

COMMENT LETTER PH42: DR. BRENNA BAYNARD-SMITH

Response to Comment PH42-1

The commenter stated that they were unaware the public hearing was taking place. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

Response to Comment PH42-2

The commenter states concerns over the impacts to crime, problem gambling, and morality as a result of the Proposed Project. Concerns regarding the morality of gaming do not translate into physical environment effects and thus are outside of the scope of NEPA. Refer to General Response 1. Potential effects to socioeconomic conditions, including problem gambling and crime, are discussed in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH43: JOEL VALENZUELA

Response to Comment PH43-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would be financially beneficial to the City of Barstow and the Tribe is reflected in Sections 4.6 and 1.2 of the EIS/TEIR.

COMMENT LETTER PH44: MARK FRANNEY

Response to Comment PH44-1

Comment noted. Potential impacts to crime under the Proposed Project are fully discussed in Section 4.6 of the EIS/TEIR.

Response to Comment PH44-2

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH45: MORRIS REID

Response to Comment PH45-1

Refer to **General Response 3** regarding compliance with IGRA and laws pertaining to off-reservation gaming. Refer to **Response to Comment PH21-2** regarding the gaming management contract.

COMMENT LETTER PH46: CHARLES WOOD

Response to Comment PH46-1

Refer to **General Response 3** regarding compliance with IGRA and laws pertaining to off-reservation gaming.

COMMENT LETTER PH47: ANTHONY IMANDI

Response to Comment PH47-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

Response to Comment PH47-2

Please refer to Section 4.7 of the EIS/TEIR for an analysis of potential effects on traffic and transportation. The commenter expressed support of the Proposed Project. Please refer to **General Response 1**. The commenter's statement that the Proposed Project would provide jobs to the City of Barstow is reflected in Section 4.6 of the EIS/TEIR.

COMMENT LETTER PH48: CURT MITCHELL

Response to Comment PH48-1

The commenter's statements are noted. The MSA that the commenter refers to is included as Appendix D to the EIS/TEIR. The commenter's statement that gas stations are prohibited on trust land is incorrect; however, a gas station is not proposed in any of the EIS/TEIR alternatives.

COMMENT LETTER PH49: LYNN CHAPEROSA

Response to Comment PH49-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.

COMMENT LETTER PH50: RILDA CONTRERAS

Response to Comment PH50-1

The commenter expressed support of the Proposed Project. Please refer to **General Response 1** regarding comments that express an opinion without providing substantive information or data indicating a need for additional analysis.